State and Federal Government of Switzerland

J. M. VINCENT

STUDIES IN HISTORICAL & POLITICAL SCIENCE

JOHNS HOPKINS UNIVERSITY STUDIES

IN

HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

History is past Politics and Politics present History.—*Freeman*

EXTRA VOLUME

IX

STATE AND FEDERAL

GOVERNMENT IN SWITZERLAND

BY

JOHN MARTIN VINCENT, PH. D.

Librarian and Instructor in the Department of History and Politics, Johns Hopkins University

BALTIMORE
JOHNS HOPKINS PRESS
1891

PRESS OF ISAAC FRIEDENWALD CO.
BALTIMORE.

TO

PROFESSOR WILHELM ARNDT

OF THE UNIVERSITY OF LEIPZIG

THIS VOLUME IS DEDICATED AS A TOKEN OF RESPECT

BY A FORMER PUPIL

PREFACE.

I have attempted to give in these few pages an outline of the existing conditions of government in Switzerland, in its federal, state, and local aspects. It is not a constitutional history; yet Swiss institutions are so firmly rooted in the past that historical explanations have at times been necessary, and the temptations to enter upon still wider digressions almost irresistible. Were it possible to give in brief space the evolution of each department of political and economic life I should deem the result well worth the effort, but such an exhibit is foreign to the purpose of this book. As it is, I have approached the subject from a republican standpoint. When I began these studies there was no adequate work upon Swiss government in the English language, and such as were written by other foreigners seemed to lack sympathy with the subject, because the authors were not personally accustomed to democratic institutions. I venture to hope that American nativity has given me some measure of appreciation and of impartiality.

I have had occasion to say frequently, and the statement can scarcely be repeated too often, that government in Switzerland can only be fully understood when the confederation and the cantons are studied together. Their fields of operation are at some points distinct, at others they overlap, and the functions of state and federal government become blended, in a manner for which there are no analogies in the institutions of the United States. Yet on the whole the two governments are so similar, and so many problems in national life are being worked out simultaneously in both, that an eminent professor of American history is well justified in saying that "of all the foreign federal constitutions now in operation, the most important for comparison with the Constitution of the United States is that of Switzerland." It is,

therefore, with more than curious interest that I have inquired into the various departments of Swiss political life, for although I have only occasionally drawn a moral for American readers, I have felt that here we might see ourselves somewhat as others see us. If I have in any degree incidentally contributed to a better understanding of our own institutions, or made clearer the solidarity of our own state and national life, I shall feel repaid.

It is eminently appropriate that a study of Switzerland should appear under the auspices of the Johns Hopkins University, since within its walls are kept the books and papers of one of the most eminent historians of that country, Professor J. C. Bluntschli, who began his career in Zürich, but ended it at Heidelberg as an European authority upon international law. While yet in his native country he wrote extensively upon the history of Zürich, and upon the constitutional history of the whole confederation. At his death, in 1881, his library, manuscripts, and historical materials were purchased by German citizens of Baltimore and presented to this University. To this collection was added, in 1886, a large number of books and pamphlets relating to the history and government of Switzerland, presented by the Federal Council at Bern, through the kind mediation of the Hon. Emile Frey, then minister plenipotentiary of Switzerland at Washington, now a member of the Federal Cabinet. It was largely due to these gifts that a study of Switzerland was made possible without continuous residence in that country.

To many friends I am indebted for encouragement and direct assistance in the preparation of this book, and I here take occasion to thank them, without making them by name responsible for its errors. I cannot, however, forbear to express my obligations for counsel and advice as to what such a work *ought to be*, to Prof. H. B. Adams and Rev. W. D. Ball of Baltimore, and Prof. Woodrow Wilson of Princeton.

Bluntschli Library, Johns Hopkins University,
May, 1891.

CONTENTS.

PART I.—FEDERAL GOVERNMENT.

PAGE

CHAPTER I.—ORIGINS OF THE COMMONWEALTH 3
CHAPTER II.—THE CONFEDERATION AND THE CANTONS 30
CHAPTER III.—FEDERAL LEGISLATION 38
CHAPTER IV.—THE LAW AND THE PEOPLE 46
CHAPTER V.—THE FEDERAL EXECUTIVE 52
CHAPTER VI.—THE FEDERAL JUDICIARY 58
CHAPTER VII.—THE FEDERAL ARMY 62
CHAPTER VIII.—INTERNATIONAL RELATIONS 67
CHAPTER IX.—FEDERAL FINANCE 70
CHAPTER X.—THE CONFEDERATION AND SOCIETY 83
CHAPTER XI.—THE CONFEDERATION AND THE INDIVIDUAL 97

PART II.—STATE GOVERNMENT.

CHAPTER XII.—STATE LEGISLATION 105
CHAPTER XIII.—REFERENDUM AND INITIATIVE 122
CHAPTER XIV.—STATE EXECUTIVE AND JUDICIARY 132
CHAPTER XV.—STATE AND LOCAL FINANCE 145
CHAPTER XVI.—COMMUNITY AND CITIZENSHIP 157
CHAPTER XVII.—CHURCH AND STATE 178
CHAPTER XVIII.—EDUCATION 182

PART III.—SOURCES OF CONSTITUTIONAL HISTORY, 1291–1891.

THE FIRST FEDERAL CONSTITUTION 191
THE PRESENT FEDERAL CONSTITUTION 194
THE ALCOHOL MONOPOLY LAW 223
LITERATURE OF CONSTITUTIONAL HISTORY 228
STATISTICAL TABLE 240

INDEX 241

PART I

FEDERAL GOVERNMENT

STATE AND FEDERAL GOVERNMENT IN SWITZERLAND.

CHAPTER I.

Origins of the Commonwealth.

The origins of the political institutions and ideas of Switzerland must be sought among the laws and customs of the early Germans. Although the foothills of the Alps were for a long time occupied by tribes of Kelts, and, later on, became subject to the Roman Empire, no influence of the ancient Helvetians or of Latin civilization survived the Great Migration with strength enough to determine the form in which law and state should develop.

Two nations of Germans, the Burgundians and the Alamanni, then enemies, later confederates, took possession of Switzerland in the first half of the fifth century, and have never been supplanted. The Burgundians, already christianized, divided the soil of the southwestern part with the Roman inhabitants, became Frenchmen, and, because of their connection with the larger Burgundy of France, became members of a Swiss Confederacy, only after it had been long in operation and the line of its evolution determined.

The Alamanni, still pagan, and hating the restraints of civilization, entered a land once flourishing with cities, but then almost abandoned. Neither Latin inhabitants nor Roman remains affected to any great degree their language or institutions. They grew and developed as a German nation. Their mountainous country fostered their native

individuality, and they became the founders of Swiss liberty, the originators of the Confederation, and were for centuries the exclusive material out of which the republic was enlarged.

Thus the foundations of the existing form of government and the political instincts of the people of to-day were in large part laid by the same Teutonic forefathers to whom we trace the constitutions of England and America.

The Alamannic invaders divided the land among themselves and settled down under separate chieftains or kings in different districts, and, we may believe, as in other German tribes these districts were subdivided into *gaue* and hundreds which were governed by counts and *centenarii* or *centgrafen*. This was at least the form of government when they were conquered by the Franks in the sixth century. At that time these chiefs were deprived of what royal power they may have had, and were made dukes of the Merovingian empire. Pippin in 748 abolished the dukes, and Charles the Great completed the subjugation by causing the *grafen* to be appointed by royal warrant instead of by popular election. In his district the *graf* administered the laws under the oversight of the royal commissioners, and commanded its army contingent in time of war. In the hundred the *centgraf*, with the whole body of citizens assembled about him as judges and jury, held court upon minor offenses, and, like the *graf* in his larger sphere, led his neighbors to battle.

Such a district, for example, was Thurgau, which originally included all the northeastern and central part of Switzerland, and such hundreds were the valleys of Schwyz, Uri, and Unterwalden.

In the expansion of the feudal system, and in consequence of vast endowments of churches and monasteries, proprietorship in the soil became greatly changed, and the lordship of these counties and hundreds became hereditary in different families. Many small owners put themselves under the protection of powerful lords, others placed themselves in feudal relation to the monasteries. Whole districts were granted in

fief to abbeys and cloisters, and thereby received the immunities which the church then enjoyed. Hence, at the time when we first begin to hear of a Swiss Confederation, the legal and political status of the country had become very much complicated, and each of the districts had reasons of its own for revolt.

Uri had been from the ninth century a fief of the abbey of Zürich. It thereby gained immunity from the jurisdiction of the ordinary *graf* and *centgraf*, and enjoyed the milder rule of the monastic officials, receiving later also the direct protection of the emperor, who appointed the advocate or overlord for all the possessions of the abbey.

The inhabitants of the lower valley of the Reuss formed the "Community of the People of Uri," and regulated for themselves all matters pertaining to their common pastures and woodlands. In Schwyz also, along with some manorial subjects, there had been preserved from earlier times a *Markgenossenschaft*, owning its own land and making its own local laws. Their external political status, however, was not so desirable as that of Uri, since they were under the protection of neighboring magnates and only distantly attached to the empire. The same may be said of Unterwalden, except that ownership of land was more divided up among monasteries and nobles and there were fewer free farmers than in Schwyz. In both the constant menace was that their overlords would assume not only the feudal protection of the districts, but the territorial ownership as well, and gradually deprive the small owners of their remaining rights.

We must not put too large an estimate upon the legislative powers of these communities at this time. The scope of law-making doubtless went little beyond the concerns of their common farming and pasturage. Popular rights found expression rather in the application of law, in attendance upon court and in sitting upon juries in local trials. Here they would jealously guard ancient usages and resent foreign interference and arbitrary interpretation. It is important to

note, however, that their common interests and occasional assemblies kept alive the sense of mutual dependence, and when political matters were in the air, the *Markgenossenschaft* became the centre of action. In this local agricultural freedom lay the germ of larger political liberty, and when the time came for action, the instinct and the instrumentalities were at hand.[1]

At the beginning of the thirteenth century we find the dukes of Zähringen in hereditary possession of the combined offices of Count of Zürichgau, now partitioned out of Thurgau, and of advocate for the abbey of Zürich. Thus the three hundreds, Schwyz, Uri, and Unterwalden, were under the same overlord, but with far different relations. In Uri the duke only exercised a general superintendence through a sub-advocate, while in Schwyz and Unterwalden he administered the laws through his own vassals, who received the offices of *graf* and *centgraf* as hereditary fiefs. There was imminent danger that through long usage the local liberties of the people would gradually sink into feudal serfdom. But in 1218 the house of Zähringen became extinct and its fiefs fell back to the crown.

Zürich, city and abbey, and consequently Uri, sought and received a renewal of their immunities.[2] The other districts began at once to strive after the same immediate attachment to the empire, and at last obtained it from the emperor Frederic II., in 1240, who decreed that Schwyz and Unterwalden should forever after be imperial fiefs and should be governed by imperial advocates.[3] The counts of Habsburg, who, as vassals of Zähringen, had long held the offices of *centgraf* in these valleys, now became imperial instead of feudal administrators, and the condition of the people so far improved that in case of misgovernment appeal could be made directly to the emperor, in place of a self-interested overlord.

---

[1] Cf. Dierauer, Gesch., I. 84.

[2] In 1231.

[3] Oechsli, Quellenbuch, p. 47.

In 1273, Rudolf of Habsburg was elected king. He at once confirmed the imperial relationship of Uri, but for Schwyz and Unterwalden deferred without directly refusing the renewal of the privileges of Frederic II.

The evident object was to gain by gradual usurpation the territorial lordship over these districts and add them to the increasing hereditary possessions of his family. The purchase of Luzern and many small landed properties scattered over the three cantons, the imposition of foreign bailiffs, together with increasing burdens of taxation, strengthened these suspicions, and caused not only Schwyz and Unterwalden, but also the imperial fief Uri, to look forward with uneasiness to the future. Rudolf died in 1291, without confirming the charters. The character of his son Albert was not such as would inspire hope of better treatment, and seventeen days[1] after Rudolf's death, the three districts entered into a league. The charter itself declares it to be a renewal of an older compact, but no document earlier than this having been preserved, this agreement is known as the First Perpetual League[2] and the starting-point of the Swiss Confederation.

The object of the League of 1291 was not total independence of all outside domination, but the preservation of their old direct connection with the Empire and long-accustomed local rights. The confederates solemnly agreed not to receive any judge who was not a native of their valleys, nor one who had bought his office with a price; to settle all difficulties arising between the three cantons by arbitration, and if any party refused to accede to a decision, the others should compel it to obey; and in case of attack by any power, the other cantons should come to the help of the endangered.

But all proper feudal claims should be respected, and each district should serve its own overlord in all things so far as

---

[1] Dierauer, Gesch., p. 78.

[2] Amtliche Sammlung der Eidgenössischen Abschiede, I., p. 241; Oechsli, Quellenbuch, p. 49.

they were right, just, and customary before the time of King Rudolf. The territorial rights of the abbeys and monasteries who had lands and serfs in those valleys, the family possessions of noble houses, and the imperial overlordship were to be honored as before. Ten weeks later a defensive alliance was also entered into for three years between Uri, Schwyz, and the city of Zürich, in which mutual assistance is promised in case of attack.

The confederates had not misconceived the plans of Duke Albert, for almost immediately an Austrian force appeared before Zürich, though it does not seem from the meagre accounts that much was done, and peace was signed in August, 1292. The danger was temporarily bridged over by the election of Adolf of Nassau as king. He left the Swiss pretty much to themselves, and finally in 1297 renewed the privileges granted by Frederic II. But in 1298 Adolf was killed in a battle with his rival, and the confederates were once more exposed to the ambitious plans of the house of Habsburg.

From this time on until his death, Albert more and more exasperated the people of these valleys by tyrannical measures of government. Overbearing bailiffs were set over them, who acted as if they were the overseers of Habsburg private estates, rather than governors of imperial fiefs, and outraged both the written privileges of the cantons and the commonest laws of justice. The Swiss found it advisable to endure this for a time, but upon the news of the emperor's murder the confederates at once arose, drove out the hated bailiffs, and in the following year obtained from Henry VII. not only a confirmation of their previous imperial independence, but also the privilege that they should not be cited before any court outside their own land, except to the royal tribunal itself.[1] But in 1313 another double election of kings brought all Germany into arms and threatened once more

[1] *Jus non evocando.* Kopp, Urkunden, p. 103. Oechsli, Quellenbuch, p. 52.

the beginnings of freedom in the Swiss valleys. The confederates, naturally distrustful of the house of Austria, sided with Louis of Bavaria, and in consequence, Leopold, brother of the rival king Frederic, set out with an army of 10,000 men to complete that humiliation of the peasants which his father had attempted. The invaders were routed in the battle of Morgarten in 1315. The confederates, rendered confident by success, renewed in the same year the compact made in 1291, with the important addition that no party should submit to an overlord or negotiate with a foreign power without the consent of the others.

The eventual success of Louis of Bavaria removed the danger of invasion for a considerable time, and peace between Austria and the Forest Cantons was definitely signed in 1323. In 1324 Louis declared the manorial and feudal rights of the rebellious Frederic forfeited to the crown, and the tenants of his lands free imperial citizens. By this stroke the inequalities of the inhabitants were almost entirely removed, the jurisdiction of manor courts largely replaced by the common law and customs of the land, and the sense of unity among the cantons greatly solidified.

The next addition to this confederation of states was Luzern. Having been for hundreds of years a fief of the abbey of Murbach, and enjoying the immunities connected with clerical possessions, this city suddenly found itself in 1291 sold out to the house of Habsburg and under the domination of Duke Albert. The governor was now an appointee of a prince anxious to extend his dominion and authority, and although this new official promised to maintain the old privileges, the political tendency of Habsburg government was plainly contrary to the interests of Luzern. The citizens were obliged to fight against their neighbors in the wars of Austria with the Swiss, and had these attacks been successful, the country would have been reduced to one common dependency. These facts and the close proximity of the three imperial cantons, brought about a union of

Schwyz, Uri, Unterwalden, and Luzern in 1332. Mutual aid in time of war and arbitration of disputes were the objects of the league. The territorial rights of their several overlords were distinctly reserved, but the final result could not help but be against the house of Austria.

A second infusion of the municipal element into the confederation resulted from the admission of Zürich in 1351. This was an important addition, since Zürich was not only a flourishing commercial centre, and the confederates thereby gained the advantages of internal free trade, but situated as it was at the head of the lake, it formed a strategic point on the main road over the Alps. Zürich also had immediate cause to be glad of allies, for the signing of the compact was the signal for attack by an Austrian army. The siege was sustained with the help of contingents from the Forest Cantons, and the outcome of the war was that the confederation which began it with five members finished it with eight. The additions were Glarus, Zug, and Bern.

The valley of Glarus since the eighth century had been a fief of the abbey of Säckingen on the Rhine, and as such had been administered successively under the overlordship of the houses of Lenzburg, Kyburg and Habsburg, but the resident bailiff had for three centuries been a member of a native family. In 1288, however, to the consternation of the valley, this office also was bestowed upon the house of Habsburg, which thus came into possession of both higher and lower judicial functions. The difference at once became apparent in increased taxation and rigor of administration.

The first evidence of revolt was a refusal to take up arms for Austria in the invasion of 1315. The Glarnese would fight only in behalf of the Abbess of Säckingen. Redoubled oppressions by foreign bailiffs, and the refusal to renew certain charters accidentally burned in a general conflagration, so deepened the bitterness against Austria, that in 1351, when a detachment of Zürich soldiers overran and took possession of the valley, the inhabitants not only did

not resist, but at the request of the invaders cheerfully sent a company of men to assist the besieged city. When the Austrians endeavored in the following year to recapture Glarus they were completely overthrown, and a few months later this canton was joined to the league. The agreement was entered into by Zürich, Schwyz, Uri, Unterwalden, and Glarus, but the latter was not admitted on an equality with the others. Demands for aid from the other confederates were to be subject to proof, but when the Glarnese were called upon they should respond without question. Equality was not obtained till 1450.

The city and district of Zug were likewise under the overlordship of Habsburg, and, on account of their situation, important to the league in a war with Austria. So a few weeks after the capture of Glarus a confederate force surrounded the city. The besieged sent at once to the Austrians for assistance, but Duke Frederic, intent on humiliating Zürich, refused. Zug, finding no glory in faithfulness to such an overlord, made peace at once and entered into a league with the confederates. In this compact all of the former cantons were parties except Glarus, and Zug was received into the confederation on an equality with the others.

Of still greater importance was the acquisition of Bern. This had long enjoyed the rights of an imperial free city, and as such was an ally of the house of Austria in its war against the Swiss, even sending a contingent to assist in the siege of Zürich. But in fighting against the Forest Cantons, the contradiction of its interests was so apparent that as soon as peace was concluded Bern took steps toward an alliance with these neighbors. By a treaty in 1353 it entered into a perpetual league with Uri, Schwyz, and Unterwalden, upon conditions similar to those in the other agreements. With Zürich and Luzern, Bern had no connection except through the original states. If Bern desired assistance in war it called upon the Forest Cantons, and these in turn demanded the help of the cities. If Zürich and Luzern were in need, Bern was enlisted by the same mediation.

The League of Eight, as thus completed, remained without further enlargement for a century and a quarter. These details of its early history have been given with some particularity in order to show the original motives to the formation of a union, the changing circumstances which caused its continuance and enlargement, and the reasons for the peculiar nature of the federal bond. From this point onward to the close of the eighteenth century, events and institutions move with more deliberation, and, although we pass through the most brilliant period of the military ascendancy of Switzerland, there is less to record of institutional advancement.

In the course of the next one hundred and thirty years three important landmarks are to be met in the constitutional growth of the confederation. The first is the so-called *Pfaffenbrief* of 1370. It is an agreement by means of which all the states except Bern and Glarus freed themselves from the jurisdiction of clerical courts in all temporal matters.[1]

The chief provisions of this "Priest Letter" were (1) that every inhabitant who was bound by oath of vassalage to the dukes of Austria should also swear allegiance to the confederation, and that this should include clergy as well as laity, nobles as well as commoners. (2) That clericals who were not citizens of any confederate city or land, yet dwelt within the confederation, should not summon a confederate citizen before any foreign court of justice, either clerical or temporal, but should cite him before the court of the place where he resided, except in matters relating to the clergy and to marriage, which belonged to the jurisdiction of the bishop. The penalty was outlawry to any priest who disobeyed.

It was further attempted to set some limit to the disquietudes of private warfare by prohibiting armed conflicts to all who had not first obtained a government license. But the *Pfaffenbrief*, as its nickname indicates, is distinguished more than in any other way for the measures taken to cut off the

[1] Eidgen. Abschiede, I., p. 301. Oechsli, p. 99.

jurisdiction of foreign and distant courts and to diminish the abuses of clerical immunity, thereby making a distinct advance in the direction of neutrality and independence.

The second constitutional monument of this period was the *Sempacher Brief* of 1393, which may be called the first war-ordinance of the confederation.[1] A secret treaty had been discovered between Austria and the Burgomaster and Privy Council of Zürich, in which the city was pledged to remain neutral if Austria made war upon the confederates. The citizens procured the overthrow and banishment of the traitors, and during the excitement caused by this narrow escape from danger, the confederates took immediate steps to tighten the bonds of union between themselves. Since they had so recently fought out their cause with Austria to an honorable result, they would now provide for future attacks by renewing their former oaths and agreements, to the end that fellow-citizens should live in peace with one another, should not violently enter each other's houses in war or peace, and should assist each other in all things without deceit. Merchants should be protected in person and in goods.

To make defense of their country more effective, regulations were made for the better conduct of war. As their forefathers had always done, each city and district fought under its own banner. If any one deserted the flag, his life and goods were at the disposal of his state. Even the wounded were expected to follow the banner as long as they could. No one should begin to plunder until the commander gave permission. The booty when brought in should be handed over to the officers, and these should divide it honorably among all the men alike. Cloisters and churches should not be plundered unless an enemy or his goods were concealed therein. Women should not be struck nor stabbed nor otherwise ill-treated, unless they fought themselves, or by

[1] Eidgen. Abschiede, I., p. 327. Oechsli, p. 110.

outcry gave help to an enemy; they could then be punished according to desert.

This was the first agreement in which the confederated states all acted together without the mediation of the original cantons or through the indirect connection of cities. Its name came from the fact that the battle of Sempach, in 1386, is several times mentioned as showing examples of the evils which the treaty sought to abolish, and one Swiss historian goes so far as to call it the first attempt made by any people to temper by agreement the savagery of war.[1]

Eighty-eight years after this agreement the confederation passed through a crisis which threatened its very existence. The danger in this case came from within instead of without. Discord among the states had been increasing for some time, for it was plainly to be seen that the interests of the cities and the rural communities widely diverged.

The league had been formed on a basis of equality of states, but it could hardly fail, in course of time, that the cities, with their larger and more cultivated population, should exert a more commanding influence in the politics of the nation than the agricultural cantons, whose boundaries were comparatively stationary and people less progressive. The moral weight was on the side of the cities, but the vote in the Federal Diet exhibited four rural states against three municipal, with Zug in a changeable position, as it was composed of both city and country. The policy of Schwyz, Uri, Unterwalden, and Glarus had degenerated into chronic opposition to the desires of Zürich, Bern, and Luzern. The Forest States regarded themselves as the founders of the League and still the centre of its life. They were jealous of the increasing power of the towns, their wealth and evident influence with foreign nations. They feared also for their

[1] Dändliker, Gesch. d. Schweiz, I., p. 560. Same, I., p. 594: "The Confederation which in the 19th century established the Convention of Geneva for the protection of the wounded, had already in the 14th century, for the first time in the history of the world, mitigated the barbarity of war."

hard-bought freedom, should the aristocratic cities gain the upper hand, and the municipalities on their part had given cause for suspicions of this kind, for in the government of their territories they made distinctions between citizens within and without the walls, much to the disadvantage of the latter, and in general held their rural subjects in invidious subordination. The Forest States had no desire to become appendages of the rich, aristocratic, and sometimes unscrupulous governments of Bern, Luzern, or Zürich. The cities, moreover, had appeared to reap most of the advantage from the confederate wars. Their territories had grown larger by annexation, while the enclosed central states must remain the same. Especially in the war with Charles the Bold, Bern had gained greatly in extent on the west, while the immense booty taken in battle and the tributes laid on conquered cities seemed to the country cantons to be unfairly divided, for all were supposed to receive an equal share. The cities protested that it was no fair division of booty to give each one of the country states, who had all together furnished 14,000 men for the war, an even share with Bern which had sent out 40,000. Another bone of contention was the enlargement of the union. The cities had for a long time desired to bring the cantons of Freiburg and Solothurn into the League. This was a step recommended by policy as well as by friendship, for by this means the borders of the confederation would have been rounded out to limits much better fortified by nature, not to mention the numerical increase in military forces. But these were municipal governments, and the Forest States, unwilling to add more to the voting strength of the cities and thereby place themselves in the minority, refused again and again to admit these cantons.

The situation daily grew more critical. Schwyz, Uri, and Unterwalden made an agreement with Glarus to stand by each other in case of attack. Luzern, Bern, and Zürich made a compact of mutual citizenship, a form of agreement by which they sought to circumvent the oath they had taken in the League of Eight to enter into no new alliances.

Just at this point there was alleged to have been discovered a plot to destroy the city of Luzern by countrymen of Obwalden and Entlibuch. The cities were thrown into a frenzy and peace was strained to the utmost. Threats and recriminations passed from side to side, but finally, as an almost hopeless effort toward reconciliation, a Diet was called to meet at Stanz on the 8th of December, 1481.

The details of this conference read like romance, so great was the transformation which took place in the feelings of the confederates. Much controversy has arisen over the causes of this sudden change of sentiment. Whether it was the moral influence of the hermit Nicolas von der Flüe or the statesmanship of Burgomaster Waldmann which brought it about is difficult to decide, but just as the Diet was about to break up in confusion a compromise was effected, and an agreement was drawn up which is known as the Convention of Stanz (*Stanzerverkomniss*). In this convention the agreements of the Perpetual League, the *Pfaffenbrief* and of the *Sempacher Brief* are re-affirmed and the new separate alliances abolished. As to the matter latest in contention, it was agreed that movable booty should be divided according to the number of men sent into war, but new acquisitions of territory should be shared equally among the states participating. Thus the principle of state-rights was preserved and the idea of popular representation received its first, and for three hundred years almost its only recognition. In another agreement, made the same day, Freiburg and Solothurn were admitted to the League on equal terms with the others.

In 1501 the confederation was enlarged by the admission of Basel, which, on account of its situation and importance, was a most desirable acquisition, and in the same year the addition of Schaffhausen, like Basel, a free imperial city with outlying territories, still further strengthened the union.

The next, and for two hundred and eighty-five years the

---

[1] Eidgen. Abschiede, I., p. 696. Oechsli, p. 203.

last, addition to the inner membership of the alliance was Appenzell. This canton had often sought admission, but had hitherto been refused on account of the warlike disposition of the people and their liability to get into trouble without sufficient cause. Indeed, all three of these new states were placed in a subordinate position, as may be seen from the fact that they were enjoined from making new alliances or beginning war without the consent of the other confederates. For Basel and Schaffhausen the peculiar arrangement is made that in case strife should arise between other members of the League, they are to endeavor to mediate peaceably, but failing in this they are to stand by, let them fight it out and aid neither party.

Connected with the confederacy there were, for varying periods and in different relationships, other territories and cities more or less under its control. One class consisted of the so-called Allied Districts (*Zugewandte und Verbündete Orte*), who were attached to the central body not as equal members, but as friends for mutual assistance. This form of alliance began almost with the formation of the league, and gradually extended till it included St. Gallen, Biel, Neuchatel, the Bishopric of Basel (which territory lay outside the city), the separate confederacies of Graubünden and Valais, Geneva and several free imperial cities of Germany, at one time so distant as Strassburg.

More closely attached to the confederation were the *Gemeine Vogteien*, or subject territories, whose government was administered by various members of the league in partnership. These lands had been obtained partly by purchase or forfeiture of loans and partly by conquest. The desire for enlargement of territory began early in the history of the cantons, and all of them added individually or in partnership to the extent of their possessions. In the fifteenth century this ambition seized upon the confederation itself. Previous to the battle of Sempach the struggles of the Swiss had been to defend their rights and hereditary privileges. After that

decisive occasion their aims were toward increase of power, and, while the cantons had generally enlarged their borders by purchase, the confederation as a rule made use of force. Thus in 1410 seven states joined in the subjugation of Eschenthal, an Italian possession beyond the Gotthardt. Of greater importance was the acquisition of Aargau. This was a fief of the house of Austria and had faithfully followed its fortunes, but when the Council of Constance excommunicated Duke Frederic, the Emperor Sigismund placed him and his territories under the ban of the Empire and invited the confederates to take possession of Aargau. As they had only three years before made a fifty years peace with Austria, they were reluctant to do so, but finally succumbed to the temptation. Uri alone would have nothing to do with it. The other seven assumed the government, and administered its affairs by governors appointed alternately from each state, dividing the surplus revenues equally between themselves.

In consequence of another quarrel with Austria in 1460, the Swiss took possession of Thurgau, and after some forty years of contention obtained complete jurisdiction in 1499. The inhabitants at that time desired admission to full membership in the league, but the confederates had become so greedy of spoils that they would not forego the advantages of the offices and revenues. They were democrats at home but not abroad, so Thurgau remained until 1798 in a condition of subjection to the League of Thirteen.

By various means and under differing conditions other districts were brought under the rule of the league during the next few years, so that before the middle of the sixteenth century nearly all the territory now included in Switzerland was in some way connected with the confederation.

Upon this territorial basis of states, subject lands and allies, the fabric of government stood till the close of the 18th century. It was a loose confederation, whose sole organ of common action was a Diet in which each state was entitled to one vote. During the infancy of the league the

machinery of federal government was simple indeed. Whenever anything needed to be done in concert, the state to whom the matter first occurred called a Diet; delegates were appointed, and these, upon assembling, acted according to the instructions of their home governments. If disagreement arose between two states, each appointed referees, and if these were unable to agree, a third was chosen by the other two, and his opinion prevailed. Such were the beginnings of the Swiss Federal Tribunal. In war each state furnished and maintained its own soldiers, unless the campaign was undertaken for the special benefit of a single state; then the canton which called in aid maintained the forces while within its own boundaries.

The formal bond of union was for five hundred years hardly more than this. In later times the Diet assumed more of the duties of the primitive arbitration committees, and was recognized more as a central organ of communication, yet the written articles of confederation were but little different from the early beginnings. The *actual* bond of union, however, owing to the pressure of circumstances, was greater than written agreements. Until the Reformation had introduced religious schism between the states, the presence of powerful enemies on every hand kept fresh the sense of mutual dependence, and the Swiss Confederation rose above the letter of its constitution; but when it had passed through the struggle for existence, and the principle of state-rights found no impediment in its way, the weakness of the central government became sadly apparent.

The Diet, which at the height of its power had no means of enforcing its own decrees, was even for a time during the Reformation split into Catholic and Evangelical parts which acted separately. When united again, the small powers which had been exerted rapidly faded away. The acts of the Diet were in no sense legislative, but rather recommendations to the several states, for, though the resolutions passed may have had the form of law, they were obeyed only when it suited

the individual cantons. The military affairs of the country reached a deplorable condition, notwithstanding numerous attempts to provide for a uniform system of national defense. Jealousy and indifference broke down all efforts to strengthen the central government, and the country was open to the first invader.

The situation was similar to that of the United States under the old confederation after the war of independence was over, except that, on account of religious differences, the disintegration of interests was more marked in Switzerland than in America. Had the United States continued under that form of government for a century, or even a generation longer, their political condition would doubtless have been as bad.

Almost the only thread that held the Swiss Confederation together was the possession of subject lands. In these they were interested as partners in a business corporation. Here were revenues and offices to watch and profits to divide, and matters came to such a pass that almost the only questions upon which the Diet could act in concert were the inspection of accounts and other affairs connected with the subject territories. These common properties were all that prevented complete rupture on several critical occasions.

Another marked feature in the condition of government was the supremacy gained by the patrician class. Municipalities gained the upper hand over rural districts, and within the municipalities the old families assumed more and more privileges in government, in society, and in trade. The civil service in some instances became the monopoly of a limited number of families, who were careful to perpetuate all their privileges. Even in the rural democracies there was more or less of this family supremacy visible. Sporadic attempts at reform were rigorously suppressed in the cities, and government became more and more petrified into aristocracy. A study of this period of Swiss history explains many of the provisions found in the constitutions of to-day,

which seem like over-precaution against family influence. The effect of privilege was especially grievous, and the fear of it survived when the modern constitutions were made.

The Helvetic Republic.

These aristocracies were particularly obnoxious to the revolutionists of France, and, after they had sufficiently cured the evils of human society in their own country, they determined to rectify the political affairs of Switzerland according to their views of the rights of man. The army of the Directory was charged with the propagation of the new doctrine, and the Swiss were obliged to receive a new form of government at their hands.

A more complete change in the political character of Switzerland than that introduced by "La République Helvetique" in 1798 could hardly have been imagined. Where had been a *Staatenbund* of the frailest kind was erected in a day a unitary state with central government. What had been independent sovereign states now became departments only of a larger unit, or, in some cases, several were thrown together to make a single department. Bern, the largest and most aristocratic, was divided into four, and general havoc was made with existing institutions.

The central legislature consisted of a Grand Council of representatives elected from the cantons according to population, and a Senate of four delegates from each canton, to whom were to be added from time to time the retiring members of the Directory. Senate and Council together elected the Executive Directory of five members. These in turn appointed four ministers for different departments of administration, and together wielded the executive power of the state.

Local administration was carried out by prefects in the cantons, sub-prefects in the districts, and agents in the communes. These were offices hitherto unknown in Switzerland, and their connection with each other and the central power formed a distinct innovation.

Such radical changes and such reckless disregard of past conditions could hardly be expected to find cordial acceptance. Discontent was held in check for nearly five years by French bayonets, but the Helvetic Republic was finally driven across the border before a storm of reactionary indignation. Although this was a period of visionary experiment in government, and political abuses exasperated the Swiss beyond endurance, the educating influence of that short experience in centralized government must not be left out of account. Many of the most patriotic minds were enthusiastic for greater unity, and endeavored to direct their country toward higher ideals of politics and social welfare. Many things were begun that have only in these later years again become established, but so rudely was the matter thrust upon them, and so greedy were the saviors who came to their rescue, that reaction was inevitable.

The Act of Mediation.

Napoleon Bonaparte, however much he desired to make Switzerland an appendage of France, and to use her military forces as his own, appreciated the historical fitness of things and the political instincts of the mountaineers. He gave them a constitution in his Act of Mediation, which restored the local autonomy of the cantons but still retained a central government. It was, indeed, a restoration of the confederation in a form which suited the times,[1] but it was not a restoration of old conditions in the cantons. The Act of Mediation contains a federal constitution, but the first nineteen chapters outline the fundamental law of as many states. To some of these democratic, to others representative governments were given. To Uri, Schwyz, Unterwalden, Zug, Glarus, Appenzell, and Graubünden, the old folkmote, the *Landesgemeinde* and council were restored, as better suited to the inclinations and habits of those states. The distinctions

[1] Bluntschli, Schweiz. Bundesrecht, I. 460.

and privileges of the patrician municipalities which had been overthrown by the Helvetic Republic, were still held in check, and despite the reactionary efforts of the original thirteen states, the former subject territories retained their newly acquired sovereign rights. The national legislature was made again into a Diet, but regard was paid to population by giving two votes to those states having 100,000 inhabitants or more. Six of the most important cantons, Freiburg, Bern, Solothurn, Basel, Zürich, and Luzern were appointed *Vororte* to take turns at the head of affairs for one year at a time. During that year the capital of the *Vorort* became the seat of the Diet, and the chief magistrate became also the president of the Confederation, with the title *Landammann* of Switzerland.

For a period of eleven years government proceeded under these forms, but the moving spirit was all the while the man of destiny at Paris. Switzerland was not only allied with France but controlled by her. A contingent of sixteen thousand[1] Swiss must constantly be kept in the armies of Napoleon, and in all external relations Switzerland was treated as part of France. Bits of territory were torn off at Bonaparte's convenience and given to this power or that, as occasion suggested. The laws of commerce and industry were regulated to suit the financial policy of France, and protest was met with threats or harsh measures.

But the fall of Napoleon brought with it the destruction of his governmental experiments in the Alps. At the first crash every ancient privilege leaped forth to claim its own as it had been before the advent of the French. Bern demanded the provinces of which it had been shorn; the democracies wished again to be the owners of other democrats; and reactionaries in general believed their time had come. Yet to this there was a measure of restraint, even in the reactionary European powers, for the Congress of Vienna would not go

[1] In 1812 reduced to 12,000.

as far as many Swiss desired in re-establishing ante-revolutionary conditions. While the latter were endeavoring to come to some agreement among themselves as to the general principles of a new constitution, and were succeeding only in splitting into two conventions in which the eight old cantons stood out against the rest, the Powers allowed it to be distinctly understood that the newly made states must be received on an equality with the others. Seeing that further efforts to bring back the old conditions of servitude would be futile, the ultra-reactionary cantons joined the more moderate in forming the Pact of 1815, which, sanctioned by the Vienna Congress, became the federal constitution for the next three decades. Geneva, Valais, and Neuchatel were admitted to membership in the confederation, which from now on is composed of twenty-two states.

The Pact of 1815.

In most respects the interval between 1815 and 1830 was a period of stagnation; from other standpoints it was a season of convalescence. Central government went back to the previous century. The highest power was again vested in a Diet of ambassadors from each canton, voting according to the instructions of their governments. There may have been several delegates, but there was only one vote for each state. This Diet, however, in distinction from some of its predecessors, might declare war or peace by consent of three-fourths of the cantons, and decided by majority vote the other matters coming within its competence. Such were treaties of commerce; but freedom was also given the cantons individually to enter into agreement with foreign governments, even to the extent of military capitulations, while the fatal weakness of the whole constitutional framework lay in the inability of the Diet to enforce its own decrees.

The Pact of 1815 was a reactionary triumph which delayed for nearly half a century the development of the country. Little trace of the radical theories of the French Revolu-

tion found a lodgment at this time in Swiss institutions. Religious liberty, the right of assembly, the freedom of the press are passed over in silence, abandoned to the idiosyncrasies of states.

The privileged classes again obtained their ascendancy, though not to the extent which prevailed before the Helvetic Republic. There was general peace in Europe, and the states, not being called upon to unite against foreign danger, were left to work out their own problems in their own fashions with the least possible interference from a central power. These problems were solved universally in a spirit of reaction, yet there was always a small but enlightened minority struggling for better things. The effects of these efforts were first felt in the politics of the states themselves. As the French revolution of 1793 found its echo in Switzerland, so the July revolution of 1830 was reflected in the same region, but in this case affected first, not federal government, but the constitutions of the more advanced cantons. A cry went up for more popular representation in legislation and administration, and it was along these lines that advancement was made from time to time, until the old federal system became more and more unfitted for the new conditions.

Economic questions also played a part in bringing about political changes. The rapid advancement of manufactures, means of communication and transportation called for more enlightened treatment of political and social problems. The weaknesses of the old Confederation were in a manner patched up by agreements or treaties between the states. Concordats, as they were called, touching validity of marriage, the laws of commerce, weights and measures, and other matters, were established between as many states as cared to join, but these were insufficient to cover the nakedness and impotence of the central government. Beside the growing and aspiring political institutions of the states the latter became an anachronism, finally so acknowledged by all friends of good government.

The Diet itself in 1830 resigned any powers of interference it might have used to assist or hinder the progress of constitutional reform, by passing a resolution to the effect that "every state in the confederation by virtue of its sovereignty was free to undertake any changes in its constitution which seemed desirable, so long as these changes were not in opposition to the articles of union, and that the Diet would not interfere in any way with the constitutional reforms already effected, or any that might be undertaken in the future."

This permitted, indeed, the free movement of reform, but took away at the same time the guaranty of safety which members of a league might expect from a central government. The Diet was requested to guarantee the new constitutions in several states, but, in view of its own weakness in the past, refused. Hence seven cantons, Luzern, Zürich, Bern, Solothurn, St. Gallen, Aargau, and Thurgau, all of which were of progressive, if not of radical tendencies, joined in an agreement for mutual protection. This so called *Siebner-concordat* provided that when strife arose in any of these states concerning infractions of the constitution, the others should act as arbitrators, and, if necessary, give protection by force of arms.

At this day we can easily see how great a mistake it was on the part of the liberal party to abandon, even to this extent, the ideal of a united country. It was doubtless thought that the consolidation of progressive states would tend to spread reconstruction till reformers should be in the majority. But the result was quite otherwise. Very soon a conservative league, known as the *Sarnerbund*, was entered into by Uri, Schwyz, Unterwalden, Baselstadt, Neuchatel, and Valais. On one side were thus arrayed moderate liberals and radicals, and on the other conservatives and immovables of the old confederation. But if the party of progress made a mistake in combining into a league which was in such doubtful accord with the bond of union, the *Sarnerbund*

made a greater in withdrawing from the Federal Diet and meeting in a separate convention. The seceding states announced that they would not send representatives to the general congress so long as the delegates from certain parts of Basel and Schwyz, which had revolted from their home governments, should be recognized. Meanwhile, a revised federal constitution, which offered some improvements to the Pact of 1815, by strengthening the central government, was submitted to vote in the cantons, but satisfying neither the advanced liberals nor the conservatives, failed of adoption (1832). Encouraged by this action, the authorities of Basel and Schwyz endeavored to coerce their refractory parts into obedience by military measures. This roused at last the federal government, which, putting 20,000 men into the field, enforced the recognition of the two parts of canton Basel, dissolved the Sarnerbund, and compelled the states composing it to send delegates to the Diet (1833).

It required, however, one more great national peril to bring about the introduction of a federal constitution. Secession again came so near being successful that the construction of a strong central government could no longer be put off. In 1846 a new *Sonderbund* came to light, but the lines of demarkation were different from those of its predecessors. The former were based upon political theories and practices; in the latter the questions at issue were almost entirely religious, and separated states which had previously been in league. Many things had occurred during the previous decade to engender bad feeling between the Catholic and Protestant confessions, though at first the boundary lines of states had not been crossed in any of the controversies. The advanced radicalism exhibited in some parts had brought about a strong reaction in other states, a reaction which in a number of the Catholic cantons demanded the placing of Jesuits at the head of educational affairs. Luzern was one of the most fiercely reactionary cantons, and engaged the ill-feeling of the reform party to such an extent

that the state was even invaded by volunteer military companies, which came to the aid of the small minority of agitators within. But these *Freischaren* were too incoherent to effect anything more than an increase of bad feeling and to give a partial excuse for secession.

This *Sonderbund* was for three years kept secret, but in 1846 the gravity of the breach which it made in the federal constitution became known. Agreements between states on matters concerning themselves were permissible, but a political and military organization such as this was too great for even the union of 1815 to bear. Luzern, Uri, Schwyz, Unterwalden, Zug, Freiburg, and Valais were found prepared for practical rebellion against the remainder of the confederation. The Diet, by a close vote, demanded the dissolution of the *Sonderbund*, and 80,000 troops were put in motion. In a vigorous campaign of eighteen days the rebellion was broken and the authority of the confederation restored.

The New Confederation.

Revision of the constitution could no longer be delayed. The Diet went busily to work upon a new project, and on the 12th of September, 1848, the organic law which at the present day forms the foundation of the confederation was adopted by a large majority of the Swiss people. Amendments have been made from time to time, especially in 1874, but these have all been enlargements of powers already existing, and adaptations of inherent principles to the advances of time.

Switzerland obtained its federal government sixty years later than the United States, but had five centuries of prejudice to overcome. During that long period the great aim and end of all political strife was local independence, and in consideration of the race origin of the people, their national instincts, national experiences, and political education, it is no wonder that the phrase "sovereign state" should be conspicuous in the constitution. All the elevating memories of the national history, all the inspiring traditions which had

been bred into national sentiment generation after generation, were connected with a league of states of almost insulated independence. The darker periods, when fraternal feeling lost its hold and when disunion received its just reward, were enveloped in motives, religious, ambitious, or pecuniary, which are so deeply wrought into human nature that isolation, once engendered, easily perpetuated itself, grew deeper, and fastened itself into the national habit of thought.

Then, when solidarity was first offered, the form of it was so historically crude and so rudely forced upon the country, that, although common misery broke down many old prejudices, love for unity could hardly come out of it. Yet local independence has been a vital element in the evolution of the Swiss nation. By confederation this people became strong, but, after all, the motive of union, the mainspring of political combination, was desire for local independence. Without this the Swiss republic would not have existed. At the beginning there would have been nothing else to fight for. Later on there would have been no reasons for wider combinations, and, although it was at times sadly abused, the Swiss people, as they look back over the history of their neighbors who fell under the power of dynasties, may thank fortune that individuality was maintained.

The value of unity has been learned by hard experience, but through it all a vigorous local self-reliance has been cultivated, than which there is no surer foundation for safe political activity in larger fields.[1]

[1] The author, in another essay, has endeavored to explain by itself the origin and continuity of the state-rights idea. See "A Study in Swiss History," Papers of the American Historical Association, Vol. III., p. 146–164.

These considerations might be referred to the domain of local institutions and antiquarian research, were it not for the fact that in these modern days each locality has an opportunity to exert its influence upon general concerns. By means of the Federal Legislature and the popular veto upon the work of that body, the political education and natural instincts of all sides will not fail to be felt, and in estimating popular action upon any given problem all the conditions must be considered.

As indicated by the name, the form of government which binds these diverse elements together is not that of a unitary state in which the cantons act as administrative divisions, like the departments of France, but it is a federal state, in which certain powers are delegated to a central government while the rest are exercised by the individual parts. In this it resembles the United States of America, but with certain minor differences which will appear as we proceed.

The cantonal constitutions, and the federal as well, declare with one accord that "the cantons are sovereign in so far as their sovereignty is not limited by the federal constitution, and as such exercise all rights which are not delegated[1] to the federal power." They might, perhaps, be more strictly defined as autonomous states, united, for purposes common to all, in a central government; the sovereignty residing in the people as a whole, but finding two modes of expression, one for local, the other for general affairs.

They were formerly sovereign states and lived under a league like so many foreign powers, but when they joined in 1848 in forming a federal compact, they came, like the United States in 1789, into a new state which seemed but a natural growth from the old, but which eludes precise definition. Also, as in America, the consciousness of solidarity has been

[1] The words "expressly delegated" were used in Napoleon's constitution of 1803 (Act of Mediation, chap. 20, sec. 12), but, like the framers of the American federal compact, the Swiss of 1848 rejected that limitation.

a matter of slow development, even after the forms of constitutional unity had been accepted.

The line of demarcation between the functions of state and nation is not so strictly defined in Switzerland as in America. In the United States the powers given to the federal government are wielded by it exclusively, but in Switzerland it will be seen that the cantons, in some cases, join hands with the central government in exercising general functions. This is the case in the organization and maintenance of the army. Cantons are also allowed to make treaties with foreign governments on minor matters, whereas in the United States the federal government is the only treaty-making power. Differences will be noted in other departments of the state, but a tendency toward centralization is distinctly visible in the history of administration since 1848. In fact, whole fields of legislation which were not thought of at the formation of the constitution have been almost by necessity given over to the central power.[1]

On the other hand, curious combinations of administrative duties have been established. In the management of the military exemption tax, all the work of assessment and collection is performed and paid for by the authorities of the cantons, who turn over to the federal government one-half of the gross receipts. The administration of the alcohol monopoly, on the contrary, is controlled exclusively by federal law and federal officials, and every franc of net income is paid to the states.

The foremost point of contact between Confederation and Canton will be found in the guaranty by which the former upholds for each state its territory, its sovereignty, the rights and privileges of its people and citizens, and the rights which its people have delegated to its authorities. The federal government of the United States simply guarantees to each state a republican form of government, with no mention of its

[1] For instance, the control of communication by telephone.

name, size, or boundaries, but in the Swiss constitution, the fact will be noted that the cantons are all enumerated by name as the twenty-two sovereignties which compose the confederation. The result is that no enlargement can be made, either by addition from without or by subdivision within, without an amendment to the constitution, or, in other words, by general consent. In case a foreign state threatens to deprive a canton of part of its land, resistance becomes a federal matter. The question as to whether new members should be taken into the confederation did not, at the time of the formation of the constitution, depend on the development of large unreclaimed territories in the vicinity of the states, but had already long been practically settled by the events of history and the divisions of nationality.

Again, when states revise their constitutions they must submit the amendment or revision to the inspection of the central government, and if the two houses of the Federal Assembly agree that nothing in it contravenes the federal constitution, then, and not before, can the act take effect. If there are defects of this kind in the instrument, they are pointed out in the legislative report, and the result is, that, although the state may not expunge the objectionable clauses at once, they are regarded as void. Comments are also sometimes added, respecting doubtful clauses, to the effect that they must not be interpreted to mean this or that, thus forestalling any future or hidden strain upon the federal constitution.

The control over state government in this matter is thus made much more direct than in the United States, where the federal power, through its Supreme Court, exercises an indirect right of veto on state constitutions, but instead of pronouncing in advance, waits till some person has suffered and a concrete case at law comes before it. This method is in the end as effective, but tardier and more circuitous. In both cases, however, this control is not the arbitrary interference of a central administration, but is based on a contract

to which all originally agreed. The cantonal constitutions must themselves assure to their citizens the exercise of political rights according to a republican form of government, either representative or democratic, and must be subject to revision whenever a majority of citizens demand. Consequently a similarity of institutions is provided, but with wide scope for individuality in local government. It would not be possible for any state to erect itself into a principality, nor to exclude a large number of its citizens from the exercise of political rights without invoking the interference of the federal government.

In order to make its own guaranty effective, one central power must have a monopoly of the affections of its constituent parts. Hence every other political alliance between the cantons is forbidden. They may make agreements on matters of administration or internal legislation of common interest not contrary to the general constitution, but nothing like treaties of offense and defense can be tolerated. Such provisions might well be expected in the constitution of the Swiss. Nothing is more glaring in the history of that country than the evil of separate alliances. Ever since the time when cities were first joined to a confederation of rural states, there has been a tendency to combine into separate leagues. The religious animosities which rose out of the Reformation strengthened these centrifugal forces, till finally the secession of 1848 brought the country to the verge of ruin. Aroused by the danger so narrowly escaped, the Swiss at once formed a central government worthy of the name, and settled once for all the question of separate alliances of states.

When there are internal disturbances, either a conflict between cantons, or an insurrection within a state, the federal government has certain powers of intervention. The canton threatened shall at once advise the Federal Council of its predicament, and the latter shall take such measures as it finds necessary, or convoke the Federal Assembly. In case the cantonal government is not in condition to invoke aid, the

federal authority may intervene without a requisition, especially when such a disturbance compromises the safety of the country.

But occasions for forcible interference are in a measure forestalled by the agreement of the states not to rush into conflict hastily. "The cantons are bound, if strife arises between them, to withhold themselves from the taking up of arms or any measures of self-help, and to submit to the federal decision."[1]

The extent to which the Confederation may intervene in the affairs of a state without a requisition from the latter has never been fully defined. Neither laws nor precedents have established rules upon the subject, but recent events in Canton Ticino have shown tendencies which will doubtless fix the practice of the future.

The "Ticino Question," which has been before the public at least since 1876, starts with a constitutional conflict. The cantonal constitution, dating from 1830, divided the state into election districts, and provided that three representatives should be elected to the State Legislature from each district, irrespective of the number of inhabitants. The Federal Assembly declared this to be contrary to the spirit of the national constitution, and ordered that representation according to population be observed.

Another cause of trouble was the custom of allowing Ticinese natives to maintain a right of domicile in the state while living elsewhere, and to return at indefinite times to take part in elections. Various federal decrees and decisions from 1876 down to 1888 have endeavored to fix rules for persons who desire to retain their voting privileges in Ticino, all tending to stop double citizenship, but meeting with only partial success.

At several times insurrections have broken out, notably in 1889, and again in October–November 1890, for the sup-

[1] Fed. Const., Art. 14.

pression of which federal troops were called out. These affairs were, in every case, ebullitions of state politics, and the cantonal authorities affected to ignore the national government because the disputes were not between separate states. But the Federal Council, with the approval of the Assembly, has not hesitated to intervene, and after restoring order has instituted inquiries by means of federal commissioners.

From these examples at least two important ideas are to be gathered. First, that the national government feels called upon to subdue insurrection and maintain the legal authorities in any state without waiting for a summons from the latter. Second, that the central authority is competent to inquire into the validity of a state election, not only for members of the National Assembly, but also for the State Legislature. It does so on the supposition that this pertains to that guaranty of personal rights and political freedom enjoined by the federal constitution, and, though this interpretation does not meet with universal approval, the acts of the Federal Council have been sustained by the representatives of the people assembled in the national legislature.[1]

[1] G. Vogt, Zur Tessiner Frage, Rechtserörterungen, 1889. Hilty, Polit. Jahrbuch, 1889, p. 579, etc.; 1890, p. 794, etc.

CHAPTER III.

Federal Legislation.

The National Council (Nationalrath).

The law-making powers of the general government are intrusted to a Federal Assembly, composed of two chambers which are distinguished as the National Council and the Council of States. The National Council is the more numerous body, and occupies a position similar to that of the American House of Representatives. Its members are chosen by districts numbering 20,000 inhabitants, or fractions over 10,000, every such district sending one representative, who may be any Swiss citizen not of the clerical profession.[1] The apportionment is made according to a decennial census, and the number of members has increased since 1850 from 120 to 145. The districts must lie entirely within cantonal borders, hence sectional representation receives due acknowledgment through the fractional districts.[2] Yet there is the widest difference between the states with regard to the number of representatives. Bern sends twenty-seven deputies, while Uri, Zug, the half-cantons Obwalden and Nidwalden and Appenzell-Interior have but one each.

The election is direct, and any Swiss citizen who is twenty years of age and otherwise capable, according to the laws of the canton of his residence, can take part. The term of office

[1] This provision is aimed especially at the Jesuit order, whose activity in Swiss politics formerly awakened much opposition.

[2] Election jugglery is not unknown even in Switzerland. The cutting of districts to suit party purposes, or what is known there as "Election-district geometry" (Wahlkreisgeometrie), has been tried, but only to a slight extent. Dubs, Oeffentliches Recht, II. 48.

is three years, and the whole body is subject to re-election at the end of that time.[1] The members receive payment for their services out of federal funds according to the amount of attendance, the rate at present being twenty francs per diem with mileage.[2]

A president and vice-president of the Council are chosen at every session, but neither of these offices can be filled by the same person during two consecutive sessions. The president has a casting vote when the house is equally divided on a measure, but in elections votes like any other member.

The Council also elects from its own number four tellers, who with the president and vice-president form what is called the Bureau. To this Bureau is intrusted the nomination of most of the committees, the business of looking after the absentees and their excuses, beside the counting of votes and certain other matters.

Two ordinary sessions are held every year, beginning on the first Monday of June and the first Monday of December, the summons proceeding from the Federal Council (Cabinet), or if this should fail, from a demand of one-fourth of the members of the House itself, or that of five cantons.

The Council of States (Ständerath. Conseil des États).

When the evils of the old system of government by a Diet of special delegates finally became unendurable, it was resolved to adopt the bi-cameral system which had been so long in operation in England and America, and for longer or shorter periods in other countries of Europe. The basis for such a division could not be the same as that in England, because the constitution at the same time declared that there should

[1] Elections for Nat. Council must take place in all districts at once, on the last Sunday in October, by secret ballot.

[2] Mileages are fixed by an official "Distance Gazette," which includes almost every hamlet in Switzerland. The rate is 20 centimes per kilometer each way, with 10 centimes per kilometer additional for mountain passes.

be no distinction of classes in the confederation by reason of birth, title, or privilege. Hence the American plan of representing the states, as such, in a house by itself came nearest the condition of things in Switzerland.

The cantons are represented by two delegates each, making forty-four in all; the manner of election, the term of office, and the amount of compensation being determined entirely by the states themselves. Thus a great diversity of methods obtains in these particulars. In some cantons the delegates are elected by general popular votes, in others by the legislature. The term of office varies from one to three years, and the tenure being likewise variable, there is liability of continual change in the personal make-up of the upper house.

Thus an assembly which fully represents the state-rights idea has been formed, but lacking in the regularity of construction, the facility in conduct of business, and the dignity with which long tenure and experience in legislation naturally clothe a senate. Owing to this fact, the best talent in political life prefers to sit in the National Council, and consequently the centre of gravity in federal affairs is to be found in the lower house. The organization of the Council of States is similar to that of the National Council, having a president and vice-president chosen at every session.

Functions of the Federal Assembly.

In general terms, the Federal Assembly takes into consideration all matters which lie within the province of federal government. When the particulars are inquired into, it will be seen that in addition to legislative duties it also has certain administrative and judicial functions. The Assembly not only maintains an oversight of these other branches of government, but elects the officials who carry on the work. The Federal Cabinet, the judges of the Supreme Court, and the Chancellor, or Secretary of State, all owe their positions to the vote of the Legislature.

It acts as a judicial body as a last resort in deciding on complaints against the federal executive, and on questions of

competence between different departments of the government. Its properly legislative functions include laws upon the organization and election of federal officials, their emoluments, treaties with foreign powers and ratification of agreements among cantons, the annual financial appropriations, and, more fundamental than all, the power to act as a constitutional convention when it so desires, or when a popular vote demands. When acting in a legislative capacity, the houses deliberate apart, and measures must obtain a majority of votes in both to become laws; but when electing federal officials, or sitting as a court of justice, the chambers meet together and matters are decided by a majority of all the members combined.

Freedom of speech and liberty of action in voting are guaranteed. No positive instructions can be forced upon a representative in either house by his constituents.[1] Inviolability of person and freedom from arrest, except for crime, during his term of office are further safeguards placed about the legislator.

The Conduct of Business.

At the beginning of each session, the Federal Council sends to the president of each house a list of the matters which have been placed in its hands to bring before them, with comments, showing the stage at which each measure has arrived. These may be subjects which have been previously referred to the Council for opinion, or new matters brought to the attention of the Assembly by state governments or by private individuals. The presidents then consult together as to which house shall first deliberate upon each measure, and having come to an understanding, each lays before his own house, at its first or second sitting, the result of this division.

---

[1] Yet certain kind of responsibility is said to be placed upon members of the Council of States in some cases where they are elected by cantonal legislatures. This latter body sometimes requires the delegates to give an account of themselves, thus exercising an *ex post facto* control. Law on the subject, Amt. Smlg. II. 149, Wolf's Collection, p. 29.

When bills are under discussion, the presence of a majority of members is necessary to form a quorum, and a majority of all votes cast is necessary to enactment. When passed by one house, they are signed by the president and secretary and sent to the other chamber. If passed by that body also, the bill is returned to the first chamber which enacted it, and by that given to the Federal Council for promulgation. If amendments occur, the measure is referred back and forth between the houses till agreement is reached or the matter dropped. When an amended bill is brought up for discussion, the points upon which an agreement has been reached fall out of consideration and further debate is confined to matters still in dispute.

Members of the Federal Council have a right to speak in either branch of the assembly, and to make motions upon any subject at the time under consideration. They are also subject to interpellation as to the conduct of affairs, and must answer at the same or at the following sitting.

The daily sessions begin in summer at eight o'clock in the morning, and in winter at nine, and continue as a rule five hours. Members are required to appear in black clothing,[1] and to answer to their names at roll-call or furnish an excuse to the president. The absentees are noted in the minutes, and if they do not appear within an hour, or are absent without excuse, they lose their pay for the day.

Business can come before the houses either in form of (1) motion, bill, or report from the Federal Council; (2) a communication from the other house; (3) report of a committee; (4) motion of a member; (5) or by way of a petition. The president having fixed the order of the day beforehand, precedence takes place according to the calendar. The motion or report is then read in two official languages, German and French. Members of the committee have at

[1] A reaction against the airs assumed by senators and representatives of the Helvetian Republic, who distinguished their rank by conspicuous garments, hats or sashes.

this time a right to add explanations or note their dissent from the report, and thereupon the debate opens.

Members address the house from their places, and may speak to the question not more than three times.[1] Those who desire to take part may give their names to the president after the debate has opened, and he is required to keep a list of these in the order in which enrolled, and to grant the floor accordingly. Members may use either the French, German or Italian language, as educated Swiss are apt to know at least two of these, but if any one so requests, the translator, a functionary who assists the secretary, must give the substance of addresses made. The debate may be brought to a close by a two-thirds vote, but must be kept open so long as any member who has not yet spoken desires to make a motion and to defend it.

When a bill is brought up for discussion, the ordinary procedure is, first, to decide whether the subject will be entered into at all, and if decided affirmatively, whether to discuss it at once, either as a whole or article by article; but for changes in federal private law (*Civilrechtsgesetze*) special regulations are in force. Having decided to enter into a subject, and then after discussion having voted to make certain changes, the resolutions are referred to the Federal Council, who must present a final bill adapted to the condition of existing statutes. Thus the confusion in which a measure often finds itself after a long debate, and the conflicts which may in haste be overlooked, can be corrected by a body of men who are engaged in the execution of all classes of law, and can place the demands of the assembly in logical relations.

Committees are appointed to consider business of all kinds, but bills are referred to them, not of necessity, but by vote of the house in each case. These committees may be chosen by the chamber by open or secret vote, or the appointment may be left to the Bureau, mentioned above, which consists of the president and the four tellers. According to a rule of

[1] It is forbidden to read speeches from manuscript.

the Council of States, all committees in that body on certain groups of business, as railroads, military, etc., shall be newly appointed every year; a practice which one would think would add to the weakness of that body. The presidents of the two houses are required to see that certain committees meet before each session, so as to have some business ripe for immediate discussion.

The rules of the Council of States do not differ essentially from those of the lower house. Both are characterized by a desire to have matters carefully examined and to give full opportunity for discussion. The chambers are not so large as to demand a rigorous clôture for the expedition of business, and obstruction does not seem to be much in vogue. The rules allow debate to be brought to a close by a vote of two-thirds of the members present, but this cannot take place so long as any member who has not yet spoken desires to offer an amendment and to explain it.[1]

The record of legislative proceedings is kept by an officer known as the Federal Chancellor. He is elected by the Federal Assembly at the same time that the Federal Council is chosen, and serves also for three years, but is not a cabinet officer. A deputy, called Vice-chancellor, is appointed by the Federal Council. His special duty is to keep the minutes of the Ständerath, while the Chancellor attends to the proceedings of the more numerous house, but with responsibility for both. Clerical assistance will, of course, be understood as necessary.

Hitherto these records have been kept only in condensed form; the practice in both houses being substantially identical in requiring simply a statement of the business brought forward, and, when divisions are taken, the names of voters for and against. Speeches are omitted. Efforts were made recently to introduce stenographic reports of the proceedings of the lower house, but the project did not meet with the approval of the cabinet, nominally because of lack of space

[1] Geschäftsregelment, Art. 49, Wolf, p. 59.

for reporters' tables in the chamber. The large additional expense of taking down and printing fuller minutes doubtless also had weight in that decision.

The record of each day's proceedings is signed by the respective presidents and secretaries of the houses. Laws and resolutions also receive the same attestations, hence the formula attached to every federal statute reads, for example, as follows:

Also beschlossen vom Ständerathe.
Bern, den 20. April, 1883.
Der Präsident: *Wilh. Vigier.*
Der Protokollführer: *Schatzmann.*

Also beschlossen vom Nationalrathe.
Bern, den 23. April, 1883.
Der Präsident: *A. Deucher.*
Der Protokollführer: *Ringier.*

But the chancellor is not solely an officer of the legislature. He is a general master of records, having duties similar to those of the Secretary of State in American commonwealths, with supervision of the publication and distribution of laws. When the legislature is not in session he is secretary to the federal cabinet, attends its meetings, and prepares its communications and orders. Hence we find the promulgation of the law just noted bears the signature of the "Protokollführer" in another capacity.

Bern, den 16. Oktober, 1883.
Im Namen des schweiz. Bundesrathes,
Der Bundespräsident,
L. Ruchonnet.
Der Kanzler der Eidgenossenschaft,
Ringier.

The signatures of both the President and of the Chancellor of the Confederation are merely attestations of genuineness. The President has no right to withhold his assent to any document legally enacted, nor has he any veto power like that of the President of the United States. This belongs to another element in the state, which we must next consider.

CHAPTER IV.

The Law and the People.

The Referendum.

Bills which have been passed by both houses are promulgated by the Federal Council. In most other countries such acts become laws at once on the date appointed in the publication, but in Switzerland there is another power to be heard from before a measure can be truly said to have been enacted. For ninety days the law may be said to be on probation, for if within that time a sufficiently representative body of citizens so demand, a popular vote must be ordered, and acceptance or rejection decided by that.

This procedure, known as the *Referendum*, is peculiar to Switzerland. The history of its origin and growth, however, is more fully treated under State Government, where the institution has had larger development than in the confederation, and only the methods adopted for the federal plebiscite will here be noted.

All laws, "not of an urgent nature," are published immediately after passage, a sufficient number of copies sent to the government of each canton, and for ninety days submitted to inspection. The question as to whether a bill is urgent or not is decided by the Federal Legislature itself, and if it is, the Federal Council is ordered to put the same in force at once. But if it is an ordinary law, and during this period of probation 30,000 citizens petition for a popular vote, the bill must be submitted to that ordeal. It will be observed that again both the democratic and the federal idea may be represented in this expression of opinion. The thirty thousand

---

[1] Fed. Const., Art. 89, Amtliche Smlg. N. F., I. 116, Wolf, p. 74, etc.

citizens, being about one-hundredth part of the whole population, or about one-twentieth of the voters, stand for the democratic principle; but if the request come from the legislatures of eight cantons, the effect is the same. No canton, however, has as yet used this privilege, the demand always arising from popular agitation.

The request for *Referendum* takes the form of a written petition addressed to the Federal Council. The petitioners must sign the paper with their own hands, for the signing of any name but his own subjects the voter to the penalties of the criminal law. Furthermore, the signer must prove his right to vote before the officers in charge of the petition, and the qualification of all petitioners in each precinct must be attested by the proper authority. To make an expression of opinion as free as possible, the authorities are forbidden to take any fees for the witnessing of signatures.

If, after careful examination of the returns, the Federal Council finds that the request is supported by the required number of citizens or cantons, it orders a general vote, notifies the various state governments, and provides for a generous publication of the bill or resolution. The date of the vote cannot be less than four weeks after the announcement, and must be the same day for the whole confederation. The voting takes place under the charge of the cantonal and communal authorities according to these general regulations; every Swiss citizen who is in full possession of his civil rights having the privilege of participation.

If a majority of all votes cast in the required number of states are in favor of the law, it is accepted, and the Federal Council orders it placed in the statute book. A contrary vote puts a stop to its execution, but in case no petition is submitted, the Federal Council announces this fact at the expiration of the ninety days, and the bill becomes a law.

It will be seen that this petition is no ordinary expression of sentiment to be gathered on street-corners for the asking. It is a serious act of sovereignty, surrounded by all the pre-

cautions of an election,[1] and when signed cannot be laid aside, or left to the convenience of the administration, but is a command on the part of citizens to submit a law to vote. The Legislature cannot consider its work done until the constituents have been heard from, and the people are not obliged to suffer unpalatable legislation until a new set of lawmakers is elected.

This institution has been the cause of a great amount of discussion, both in and out of Switzerland. It was not adopted as a new creation in 1874, since it had been gradually coming into the cantons since 1831, yet the principle has not been accepted without question. It is certainly a realization of democracy which surpasses the fondest hopes of the revolutionary theorists, yet there is a conservative element about it which surprised its early sponsors. Introduced as a democratic and progressist weapon, the liberals found after a time that the people would not move so fast as they wished, and could use the *Referendum* to cut both ways. The Swiss have at times rejected laws which, in all reasonableness, would seem to have been for their own good; yet on the other hand, they have not made an excessive use of the veto power, and have corrected, at later elections, mistakes of other days. Less than twenty per cent of the laws coming under the rule have been submitted to popular vote, though it would seem as if most of these were called out only to be rejected. It would not be just to draw inferences from the percentage of accepted and rejected laws simply out of the number put to vote, but the whole body of legislation, those referred and those allowed to pass in silence, must be taken into consideration before any certain veto tendency can be assumed.

It must be conceded that legislation has been advancing slowly but steadily upward since the formation of the present confederation. The tendency toward centralization has not

[1] Amt. Smlg. N. F., IV. 81, Wolf, p. 76.

gone on as fast as the lawmakers would have liked, and the common voters have made themselves felt in curious ways; the old instinct of separation has been hard to lay aside, but, notwithstanding fretful political breezes, this same people has continued by this very process of the *Referendum* to make its federal government more and more effective.

Constitutional Revision.

The federal constitution is erected for no definite period of time. It exists, as it were, during good behavior, and can at any time be amended or totally renewed. Revision is made by the Federal Assembly, when both houses agree that such procedure is necessary, or when 50,000 voters demand it. When one house of the legislature votes for revision and the other fails to agree to it, or in the case where 50,000 voters demand a change and the Assembly does not act upon it, the question must be submitted to popular vote, and if a majority of citizens agree to have the constitution amended, both National Council and Council of States undergo re-election, and the revision is undertaken by this new body.

The work of revision takes place according to the usual process of making law. The constitution of 1874 was laid before the Assembly in the form of a motion of the Federal Council. This was referred to committees in each house, and finally voted on article by article by those bodies in full session. The document, as finally passed by both houses, must then be submitted to popular vote. If it receives the approval of a majority of all the people, and at the same time a majority of all the cantons, the revision becomes law, and goes into effect as soon as promulgated by the Federal Council. In determining the majority, those cantons which are divided count as two half-votes, and the result of the popular vote in each canton counts as the voice of that state.

It will be seen from this that the federal constitution of Switzerland is brought nearer to the people than that of the United States, which is adopted solely by the legislatures of

the various states; also, that it is not so difficult to change, by reason of the fact that the voting is all done on one day, and agitation can be carried on in one campaign, as it were. Instead of forty-two legislatures to be dealt with separately, who may act somewhat according to the votes of other states, a whole people is called upon to express its opinion at one time, and the result by states is determined by analysis of that vote.

There is a possibility that one-third of the cantons, containing a majority of the citizens, might be overruled by a minority in the remaining states, but such a conflict is highly improbable, as it would require these cantons to vote solidly on one side, allowing for little or no division of opinion. In all the votes hitherto taken on constitutions and laws, the majority of states has been always coincident with a popular majority.[1]

Interstate Laws by Treaty. Concordats.

One other matter should be mentioned in this connection, namely, the method by which the lack of national laws in certain directions is provided for by means of interstate agreements. When Switzerland was a loose confederation of states, this was the only way by which any approach to uniformity in private law could be reached, and when the new government was formed, some of these agreements carried over, and served a useful purpose in filling gaps not covered by federal enactment. A few others have been added; some have been superseded in whole or in part by national law.

Owing to the peculiarities of Swiss citizenship, the regulation of the right of non-residence, or persons not living in the canton which claims them as citizens, occupies the most attention. A list will be sufficient to show to what extent this method of lawmaking by treaty has been used.

---

[1] An interesting account of the growth of democratic lawmaking, both constitutional and statute, is to be found in Curti, Geschichte des schweizerischen Volksgesetzgebung.

List of Concordats.

1. Legal status of non-residents in respect to
   a. Guardianship. Thirteen cantons.
   b. Inheritance. Twelve cantons.
   c. Form of papers of residence (*Heimatscheine*). All but three.
   d. License of surveyors. Ten.
   e. License of midwives. Two.
2. Bankruptcy. All but two. (Superseded by national bankruptcy act.)
3. Guarantee of soundness in cattle-dealing. Seven.
4. Depositions in criminal cases. All but one.
5. Requisition of criminals between cantons. Eighteen.
6. Police regulations respecting
   a. Gypsies and tramps. All but two.
   b. Passports. All but one.
   c. License of persons to collect money for benevolent purposes. All.
7. Protection of agriculture against injurious insects. Seven.
8. Religious matters:
   a. Respecting conversion from one confession to another. Fourteen.
   b. Call of Protestant ministers from one canton to another. Eight.

CHAPTER V.

The Federal Executive (Bundesrath).

The chief executive power of the confederation is vested in a committee chosen by the Federal Assembly in joint session and called the Federal Council.[1]

This Council consists of seven members, who are elected at the beginning of every new term of the lower house of the national legislature, and hold office for three years. Any Swiss citizen who is qualified to sit in the National Council is also eligible to the cabinet, except that near relatives by blood or marriage, or two persons from the same canton, cannot be elected at the same time. Members of the Federal Council shall not at the same time hold any other office, either state or federal, nor engage in business nor exercise a profession. They receive a salary from the federal treasury.[2]

The chairman of the Council is also chosen by the legislature, and is known as the President of the Confederation. His alternate is called Vice-President of the Federal Council. The retiring President cannot be elected either to the same office or to that of Vice-President for the year ensuing, nor can the same member serve as Vice-President during two consecutive years.

The duties of the Federal Council are, in general, to administer the affairs of the confederation, to keep a watchful eye upon the conduct of government, and to guide, in a measure, the course of political activity.[3] Since the composition of this executive is somewhat unusual, it is desirable to look into its functions more particularly.

---

[1] Federal Const., Articles 95-104.

[2] Salaries at present, for members 12,000 francs each, with 1500 francs additional for the President. Amtliche Sammlung, I. 46, Wolf, p. 98.

[3] Fed. Const., Art. 102.

1. It conducts federal affairs, conformably to the laws and ordinances of the confederation.

2. It takes care that the constitution, federal laws and ordinances, and also the provisions of federal concordats, be observed; upon its own initiative or upon complaint, it takes measures necessary to cause these instruments to be observed, unless the consideration of redress be among the subjects, which should be brought before the Federal Court.

3. It takes care that the guaranty of the cantonal constitutions be observed.

4. It introduces bills or resolutions into the Federal Assembly, and gives its opinion upon the proposals submitted to it by the two houses or by the cantons.

5. It executes the laws and resolutions of the legislature, the judgments of the Federal Court, and also the compromises or decisions in arbitration upon disputes between cantons.

6. It makes those appointments which are not assigned to the Federal Assembly, Federal Court, or other authority.

7. It examines the treaties made by cantons with each other or with foreign powers, and approves them, if proper.[1]

8. It watches over the external interests of the confederation, and is, in general, intrusted with foreign relations.

9. It watches over the external safety of Switzerland, over the maintenance of independence and neutrality.

10. It watches over the internal safety of the confederation, over the maintenance of peace and order.

11. In cases of urgency, and when the Federal Assembly is not in session, the Federal Council has power to raise the necessary troops and to employ them, with the reservation that it shall immediately summon the councils if the number of troops exceeds two thousand men or if they remain in arms more than three weeks.

12. It administers the military establishment of the con-

[1] Art. 85, 5.

federation, and all other branches of administration committed to the confederation.

13. It examines such laws and ordinances of the cantons as must be submitted for its approval; it exercises supervision over such departments of the cantonal administration as are placed under its control.

14. It administers the finances of the confederation, introduces the budget, and submits accounts of receipts and expenses.

15. It supervises the conduct of all the officials and employees of the federal administration.

16. It submits to the Federal Assembly at each regular session an account of its administration and a report of the condition of the confederation, internal as well as external, and calls attention to the measures which it deems desirable for the promotion of the general welfare. It also makes special reports when the Federal Assembly or either council requires it.

For the more convenient transaction of business the work of the cabinet is divided into seven departments, having one councillor at the head of each. The precise arrangement is neither established by the constitution nor by statute, as in the United States, but by order of the Federal Council itself. A re-adjustment of the departments took place in January, 1888, and the order is now as follows:[1]

Department of Foreign Affairs.
Department of the Interior.
Department of Justice and Police.
Department of Military Affairs.
Department of Imposts and Finance.
Department of Industry and Agriculture.
Department of Posts and Railroads.

Although administration is thus divided up, the heads of departments are not in law the final authority upon questions

[1] Amtliche Sammlung, N. F., X. 104, Wolf, p. 94.

decided. Decisions must proceed from the Council as a body.[1] All matters directed to the cabinet are opened by the President, and by him assigned to the proper department for consideration. The secretaries may decide points coming before them and order their execution directly, if they are so disposed, but it is with the understanding that a vote of the whole council is held in reserve for use when called for.[2]

Although the members of the Federal Council have similar duties to those of the cabinet of the United States government, it will be observed that the theoretical bases upon which they rest and the sources of responsibility are widely different. In America, as it is also in all monarchical governments, the executive power is vested in one person, and the members of the cabinet are his appointees and subordinates. Though the cabinet may take counsel together, the action resulting is that of their chief. The various secretaries of the United States government are answerable for their political conduct to no one but the President, and upon him their tenure depends.

In Switzerland, however, the federal cabinet is a creation of the federal legislature, and each secretary holds a separate commission. Tenure of office is not dependent on the President, but is fixed by the constitution at a definite term of years. Reelection is possible, but always at the hands of a new legislature. Practically, cabinets in America have a fixed term of four years, but there a faithful official has a legal claim upon a three years' tenure, of which he may not be deprived except by decree of court. Nor is this a ministry which rises and falls with the measures which it advocates. It is usually elected by the party of the majority, but does not feel called upon to resign when one of its bills fails to pass. The proposal of legislation is one of the duties laid upon the Council; it is expected to lead the way in making and changing federal law, but it has no autocratic rights of initiative, even within its own

[1] Fed. Const., Art. 103.

[2] Law of Organization, Amtliche Sammlung, N. F., III. 480.

party. Any member of the chambers may move the adoption of a bill, but all are submitted to the Council for an opinion, and must be returned within a certain time. The budget is especially its work, and reports must be made on the management of the finances. In short, all bills, whatever their source, at some time pass through the hands of the Council and are stamped with their approval or disapproval.

When, however, projects urged or approved by the cabinet are rejected by the legislature, the ordinary parliamentary result does not take place. The self-respect of ministers is not called in question, because they were elected for the very purpose of giving their honest opinion on legislative proposals, and if this opinion does not agree with that of the legislature, they prepare bills which will be acceptable. Instances are rare where ministers resign on account of disagreement with their colleagues, or with the majority, and tenure usually depends on their own will in the matter. Men who have proved capable administrators are kept in office term after term. Of the cabinet of 1889 one had been in service since 1863, another since 1866, and nearly all more than one term. This long tenure has been partly due to the fact that the same party, or some shade of it, has been in power most of the time; but parties have not always upheld the projects of their own ministers, and yet when their terms expired have given them a re-election. It has also happened that good executive abilities have brought men of different parties into the same cabinet, yet the machinery of government has run as smoothly as if there were no political differences.

It will be observed that such a thing as a "cabinet crisis" is out of the question. Violent and rapid changes of ministries, one of the chief objections to parliamentary government, are overcome by the fixed tenure of office, and, although the legislature has opportunity once in three years to renew the national executive, public opinion, or tradition, or business instinct, if you prefer, keeps the faithful officer in place. Consequently the administration of affairs has reached a

high degree of perfection. The cabinet officers are, it is true, more like the heads of bureaus in other countries than like the political ministers of France or England. They are immediately in contact with the details of their various departments, as well as guides and directors of policy. Hence two kinds of ability are called for which may not always be united in the same person, namely, genius for details and great political insight, and the one may be cultivated at the expense of the other. But, however that may be, the Swiss have certainly learned the science of administration, for in all departments they succeed in showing remarkable results for the resources at command. It cannot be said that the pecuniary inducements to enter political life are great, but the honor attached to a cabinet office and the reasonable security of tenure have been sufficient to draw out an eminently respectable class of men who have served their country well.

CHAPTER VI.

The Federal Judiciary (Bundesgericht).

The history of federal courts in Switzerland offers a valuable subject for study in the development of legal institutions, but it must suffice to say here that, at the very beginning of the confederation in the thirteenth century, a method of settling interstate disputes was organized, which, though it took the rude form of committees of referees chosen as the occasion demanded, contained the germ of the modern federal court. Its growth as an independent institution, however, was not vigorous. The tendency was for a time to make the federal legislature the final resort on great questions of law, but the revision of 1874 finally placed it upon a more logical basis. The *Bundesgericht*, as now constituted, consists of nine judges and nine alternates, all of whom are elected by the Federal Assembly for terms of six years. The election is open to any Swiss citizen who is qualified to sit in the National Council, but in making choice, the legislature must see that all three national languages are represented, and that the judges are in no way related to each other. A president and vice-president are also chosen from among these for terms of two years. Alternates are persons who are called in on occasions where the regular judges are unable to serve. The court appoints its own recorders and other necessary clerks. The salaries are 10,000 francs for each judge, with 1000 additional for the president during his term, while the alternates are paid *per diem* as occasion demands. Judges may not sit in either house of the Federal Legislature, nor engage in any business or professional occupation.

The civil jurisdiction of the *Bundesgericht* as a court of first instance includes disputes between—

1. The confederation and the cantons.

2. Between the confederation on the one hand, and corporations or individuals on the other hand as plaintiffs, when the amount involved reaches 3000 francs.

3. Between different cantons, but only on questions of private law and when the complaint is made against the fiscal administration.

4. Between cantons on one hand and corporations or individuals on the other, when the amount in controversy is at least 3000 francs and one party has appealed.

5. Between communities of different cantons on questions of citizenship.

6. Appeals by cantons from decisions of the Federal Council on matters relating to the civil rights of persons who have no legal residence (*Heimatlosigkeit*).

The Federal Court also considers questions which are especially delegated to it by federal law. Thus far these have related entirely to railroads, including right of expropriation, controversies with the state and individuals, and the liquidation of these corporations.

As a court of revision the Bundesgericht also hears certain appeals from cantonal courts where parties agree to carry them up.

The criminal jurisdiction of the Federal Court covers—

1. Treason against the confederation, riot and violence against federal authorities.

2. Violation of international law.

3. Political crimes which have caused armed intervention.

4. Cases where a federal official has been handed over to the court by the authority which appointed him.

5. Other criminal cases which are referred to it by cantonal governments with the consent of the Federal Legislature.

The constitutional jurisdiction includes—

1. Conflicts as to competency between federal and cantonal authorities.

2. Constitutional and political conflicts between cantons, as, for instance, the interpretation of intercantonal agreements, conflicts of competence of cantonal authorities, boundary lines, extradition.

3. Complaints of individuals or corporations against violation of the rights guaranteed in the federal and cantonal constitutions and in the cantonal concordats.

For the conduct of criminal business the court is divided each year into three chambers, the Chamber of Complaints, Criminal Chamber, and Chamber of Appeals (*Anklagekammer, Kriminalkammer, Kassationskammer*). All but the latter consist of three members each. The last and highest, being the final resort in criminal matters, is composed of the president and four judges.

When considering civil and constitutional matters the *Bundesgericht* always sits in banc, yet the presence of seven judges is sufficient. Hence the alternates spoken of above are rarely called upon, and the necessity for their appointment is quite doubtful.

The confederation is divided into five large federal districts (*Assizenbezirke*), and the Criminal Chamber sits from time to time in each. The trial of such cases is always conducted before a jury made up from a list of persons specially elected.[1] By a law passed in 1889 the office of Federal Attorney-General, which had been for a time abolished, was restored. This official is not a member of the cabinet, but appointed by that body and under its supervision. Beside the general duties of a legal adviser and attorney for the confederation, it is the special function of the Attorney-General to enforce the laws respecting foreigners and abuses of the right of asylum in Switzerland. The introduction of the law consequently aroused the opposition of the Socialist party and all those

[1] Federal jurymen are elected in each district in proportion of one to every 1000 inhabitants. Certain official classes, the aged and sick, are exempt, but all others elected are liable to jury duty during a term of six years.

turbulent spirits who wished to use this territory as a base of operations against foreign governments. But it is evident from the lack of interest shown in the meagre petition for popular vote on the subject, that the Swiss, while resenting foreign demands for political offenders, intend to make their country a refuge for peaceful citizens and not for plotters.

In one aspect the Swiss Federal Court differs widely from that of the United States. In the latter the constitutionality of the laws even of the highest legislature of the land can be brought in question, and if such statutes do not agree with the federal charter they are declared invalid. But in Switzerland the Federal Court can only move within the limits set by the legislature. The Federal Assembly is declared to be the sole judge of the constitutionality of its measures.

While such a principle might be desirable in a country having no written constitution, it is doubtful whether the Swiss are so secure in their constitutional rights as they would be under the control of an independent judicial body, unswayed by the winds of politics. With all their facilities for revision of the constitution and for popular expression upon law, it would seem as if the matter of final interpretation should be left in calmer hands than those of a congress.

On the other hand, the federal tribunal loses something of its dignity from lack of definiteness in jurisdiction. The lines have not been sharply enough drawn between it and the Federal Assembly, and in the attempt to preserve the authority of the people in their representatives, the course of justice has, as it ascends, become a little vague. But this court may be said to be somewhat in a transition state; the settlement of its functions is a part of the struggle for and against centralization, and we may expect to see the supreme bench become more independent of the legislature. The low limit, which permits too many cases of small value to encumber the docket, will be raised, and as time goes on the federal tribunal will become more and more a forum of law, and less of fact.

CHAPTER VII.

The Federal Army.

The record of its deeds of war has been for centuries the proud heritage of the Swiss nation. By force of arms six hundred years ago the republic sprang into being; by the same power its independence was assured, and through its martial reputation Switzerland became the arbiter of Europe. It was not only because of deeds of astounding bravery that the Swiss soldier was sought for by all the armies of the continent, but also on account of tactical skill and precision in the use of arms, for in more than one respect his methods affected the development of military science. Some of the heaviest blows to ancient practices of warfare were administered by the infantry of Switzerland to the iron-clad cavalry of Europe on the fields of Grandson and Murten, and at other times their movements were the admiration of the military critics of the day. Even in the cause of others the hired soldier from the Alps displayed a steadiness and courage which made him irresistible in fair battle and unconquered in the worst of odds. To this the monument at Luzern to the Swiss Guard who fell before the mob in Paris is a lasting testimonial.

But during all the heroic age of Switzerland there was no permanent national organization of military forces. Each state furnished its contingent under a separate flag, companies were made up of neighbors and relatives, and each part governed by the rules of its own district. The old war ordinance of 1393, the *Sempacherbrief*, commands that cowards, deserters, or other breakers of its provisions shall be tried by their own land or city, and if "one be found guilty before

them to whom he belongs and whose duty it is to judge, he shall forfeit his life and goods to them to whom he belongs, and to *no one else.*"[1] In other words, a federal law against treason, but state trial and execution.

In fact, all the way down to the present century the management of military matters, as a whole, has been more or less hap-hazard. This accounts for the weakness of national defense during the period of decadence. Notwithstanding several agreements on the subject, the states could not be made to work harmoniously and with precision just at times when co-operation was most needed.

Hence when military affairs came to be considered in the construction of the new constitution, there was a large fund of experience to be drawn upon in the history of the nation itself. There was also the perennial spirit of state-rights to contend with, and the result was a compromise between the desire to have a strong military system and the fear of making it too strong. Power was in all directions dealt out sparingly to the central government, but especially in the management of the army there was a fear that too dangerous a weapon of oppression might be put into its hands. So the states retained as much control as possible consistently with good administration. After the new arrangement had been tried a few years it was found better to let the federal government have a little more control, and the present system was introduced in 1874, but all attempts to turn military matters entirely over to the central War Department have hitherto failed. Tendencies appear to show, however, that in the end that surrender will take place.

In Switzerland a standing army has never been a recognized institution. For a few years during the Helvetic Republic the country was obliged to maintain permanent troops for the benefit of France, but not willingly. Before that time the federal idea was too feeble to uphold such a

[1] Eidgenössische Abschiede, I. 327.

measure, and afterward, when central government was established more firmly, the fear of tyranny prevented. Nor yet are the cantons allowed, without special permission, to keep standing forces beyond three hundred men each, outside of the mounted police, and of this privilege they do not avail themselves.[1] On the other hand, every citizen is liable to military duty,[2] and the federal government makes the regulations under which he serves, establishes the system of instruction, drill, clothing, form of weapon, the formation of divisions, and in time of war takes exclusive command. The cantons assist somewhat in the administration, look after the available forces of their particular territories, retain the power to appoint and promote the officers of their corps as far as the grade of major, attend to the clothing and arming of their contingents, but always according to the rules provided. The military exemption tax is collected by the states (see Federal Finance), but enacted in the first place by the central government. The latter maintains establishments for the manufacture of cartridges, small-arms and cannon, and holds a monopoly of gunpowder, hence is in a position to assume at any moment of danger complete control over all the forces of war, both men and munitions.

The organization of the federal army is carried out with elaborate exactness. As stated above, every able-bodied citizen, not otherwise engaged in specified government service, must be enrolled in the militia, and continues in some form to the age of fifty a part of the national defense. For this purpose, the forces are divided into three general sections according to the age of the men composing them. The active army (*Élite, Auszug*) consists of all men liable to service between the ages of 20 and 32; the first reserve, national guard (*Landwehr*) is composed of those between the ages of 33 and 44, while the *Landsturm* or second reserve, which would be called out only in case of dire necessity, consists of all the

[1] Fed. Const., Art. 13.

[2] Ibid., Art. 18.

men between the ages of 17 and 50 not otherwise enrolled in the *Auszug* or *Landwehr*.

On coming of age, every young man is entered on the list of recruits, and if, after medical examination, he is found available, is sent to one of the schools of instruction for about six weeks of his first year. After that he is liable to be called out two weeks every other year (cavalry, ten days every year) during his term in the active army, to go into camp for military drill. On reaching thirty-two, the militiaman is mustered into the reserve, where he is no longer subject to annual drill, but, if in the infantry, undergoes a biennial, or if in any other class, an annual inspection.

Thus, without maintaining a large standing army, great care is taken in the instruction and exercise of the militia, a record being kept of every available man and where he may be found, so that when troops are wanted they may be instantly called together. The *Landsturm* has been recently placed on a higher footing, so that when it is called out it may enter the army on the same plane as the other divisions. The citizens of Switzerland are consequently to the last man an army in ambush.

The effective force of the federal army on January 1, 1889, was as follows:

Active, ...	125,570	men and officers.
First Reserve, . . .	80,715	" "
Second Reserve, . . .	262,766	" "

Hence the confederation could at immediate notice put over 206,000 men in the field, or, if necessary, 469,000 would rise to its defense. This is not large, as great armies go, but a substantial force for so small a territory.[1]

Indemnity for sickness or loss of life incurred while in the service is provided in a modest system of pensions. The

[1] The statute organizing the army dates 13 Nov., 1874, is published separately, and in Amtl. Samlg. N. F., I. 257. Changes made since then are in later volumes, and in Wolf's Collection.

maximum amount to be paid in ordinary cases is a single sum of 1200 francs, or an annual pension of 650 francs, but this may be doubled where the soldier was wounded or killed when performing voluntarily some very dangerous duty. The smaller payments are regulated according to the gravity of injuries received and the number of children in the family.

Switzerland's mode of defense is thus in striking contrast to that of the great powers surrounding her. No great army is apparent to the eye in time of peace. No draft upon the youthful strength of the nation withdraws for terms of years a large body of workingmen into an unproductive occupation, yet, by careful organization and short periods of drill the whole able-bodied male population has been made into an army. We are carried back to the old Germanic idea of the folk as "the people in arms."

It is interesting to see how this has all been done under a democratic, not an absolute form of government; how yet the army government itself is to a certain degree republican, and that precision of movement in military affairs is not incompatible with local independence in other departments of state. The natural defenses of the country have been guarded to the best advantage. Great care has been expended upon the engineering works of the frontier, and means have been provided for rapid communication between all parts. Yet, after all, the mainstay of the Swiss Republic will be the sturdy patriotism which has been for centuries the bulwark of its liberties. It is the judgment of competent observers that the soldier of Switzerland is particularly gifted with that spirit which makes all the difference between a fighting machine and a man at war. It is to be hoped that no occasion will occur for its display, but when the time arrives, this robust love of country, infused through citizens in arms, will make a small force great.

CHAPTER VIII.

International Relations.

The geographical position of Switzerland has determined in more ways than one the history and politics of the nation. While yet a part of the Holy Roman Empire, its mountain isolation gave its growth a peculiar tendency; when oppressed by grasping feudal lords, its natural configuration both gave the bulwarks of defense and bred the courage of the defenders, and in modern times the situation between four great empires not only suggests an international policy for its legislators, but guarantees its fulfilment.

That policy since the beginning of the sixteenth century has been neutrality. There was a time when Switzerland held the balance of power in Europe, and whoever had her soldiers on his side had won half the battle in advance. But after the unlucky outcome of the war in Italy, at the battle of Marignano, the Swiss determined not to mix in foreign affairs as a state policy, though they would still allow recruits to be hired. With exception of a brief and nearly fatal exception, during the period of the Helvetic Republic and the Act of Mediation, this rule has been adhered to. It found its final setting in the act of the Congress of Vienna, which bound the high contracting powers, not only individually to respect, but conjointly to defend the neutrality of Switzerland.

While it may be too much to claim that Switzerland has a peculiar moral mission to fulfill in the midst of the nations of Europe, it is nevertheless a fact that many of the problems of society are undergoing solution in that country in a way which illustrates the democratic in contrast to the monarchic method of treatment. As an ally of one or more of the great powers its influence would not be great, its individuality would soon be swallowed up, but as an independent nation,

taking neither this side nor that, it serves as a barrier to prevent too great friction between contentious nations.

The Swiss have done their part also in maintaining this neutrality by organizing a highly developed military system and by elaborate measures for frontier defenses. To avoid complications, the constitution declares[1] that "no military capitulations shall be entered into." Here long experience has pointed the way. The evils of French domination and the party distractions of centuries had their roots in the military agreements entered into by the various cantons with foreign powers.

Neither the members of the federal government, nor soldiers or officers of the army shall receive pensions, titles, orders or presents from foreign powers. This, too, was one of the sources of corruption which for a long time undermined the national life. National policy was guided by men who were in the pay of neighboring governments, and as their wealth increased, the independence of the country faded and vanished. Happily the nation did not have to wait for a constitution to revive its self-respect, for patriotism had already asserted itself, and the written prohibition was but a preventive of an evil at the time no longer feared. The United States would seem to have had the fear rather than the experience of this evil when the framers of the constitution enacted the similar prohibitions.[2] Yet doubtless both were wise in removing temptation.

Switzerland has also recognized rights on the sea as a neutral nation, a fact which at first sight might seem superfluous to a nation without a seacoast or a ship. But the commercial interests of the country, sending wares to all parts of the world, are so large that in time of war they become a matter of great concern. Hence the treaty of Paris of 1856, respecting neutral flags, neutral goods on vessels of belligerents, and blockades, was also entered into by the Swiss in the same year.

---

[1] Art. 11.

[2] U. S. Const., Art. I., Sec. 9-10.

Again, by reason of its central position, Switzerland has become peculiarly the official headquarters of international agreements. The government has accepted this mission and has been a moving spirit in such undertakings. Hence arose the convention at Geneva in 1864 for the improvement of the condition of the wounded in battle, and out of this the world-wide Order of the Red Cross. Hence, also, the Universal Postal Union, adopted in 1878, the central bureau of which is directed by the Swiss government. Many other international matters, in which the surrounding powers are interested, find expression in treaties which include Switzerland, as those concerning telegraphs, weights and measures, the Gotthard tunnel, phylloxera, railroad transportation, and international copyright.

Diplomatic relations are maintained with foreign countries by ministers plenipotentiary in France, Germany, Austria, Italy, and the United States, while commercial affairs require the attention of consuls in all parts of the world.

It cannot be said that Switzerland has ever carried out a "brilliant" foreign policy. Acts of intervention and mediation in the affairs of nations have not been the vocation of so small a state, but the Swiss have stood manfully for their own rights as occasion demanded, and especially for the right to make their country an asylum for the oppressed of every nation. This has not been an easy task, for vicious classes have taken advantage of this freedom to make Switzerland a base of attack upon other countries, but the government has always endeavored to maintain the rights of man without countenancing schemes of anarchy. To do this without offending the powerful monarchies by which they are surrounded has required a large measure of courage, skill and diplomatic tact.[1]

---

[1] See Hilty, Neutralität der Schweiz in ihrer heutigen Auffassung. Bern, 1889, pam. 69, p.

Hilty, Politisches Jahrbuch d. Schweiz, 1887, p. 669–718. "Die schweizerischen Neutralitätsverhältnisse." Describes the frontier in detail and gives an historical account of Swiss neutrality.

CHAPTER IX.

Federal Finance.

National finance in Switzerland is an institution of this century, and with slight exception, entirely a product of the latter half of that period. Up to 1848, almost the only approaches to a system of federal taxation or control of money were the measures taken to provide for army expenditures, and those were necessarily meagre, because the states equipped and put into the field their own contingents.

The machinery of central government was inexpensive to operate because there was little of it, and undertakings for public welfare on a large scale were either omitted or paid for by contributions from the states. Under the constitution of 1815 there did come into existence a national military fund[1] for the support of the army and to provide for national defense. This fund was made up partly by a war indemnity of three million francs which France had been obliged by the second treaty of Paris to pay to Switzerland, partly by unexpended interest of this, and lastly by a very low import tariff.[2] The amount was never very large, but formed a convenient war-chest, sufficient to put the army in motion at a moment's notice. By the year 1846 it had increased to over four and a half million francs, but the Sonderbund war of 1847 in a few weeks reduced this by nearly half, so that the new confederation inherited a bank account of 2,787,180 francs, a balance over expenditures of about one million unpaid indemnities due from seceding cantons,[3] and no machinery for collecting any more.

---

[1] Eidgenössische Kriegsfond.

[2] Orelli, Staatsrecht, p. 53.

[3] In 1852 this was forgiven for political reasons.

Hence the framers of the constitution were obliged to create almost an entirely new set of financial resources for the federal government. They did not invent many new expedients, but adapted to the confederation such as were already in existence in the states. But if there was no violent adoption of untried financial measures, there was an instant and visible competition with the states on their own ground. The latter also were raising money by the ordinary means, by duties on imports, by excise, and by other indirect as well as by direct taxation. Hence, with jealousy of central power to begin with, there was cantonal opposition to the infringement of taxing privileges, and the result in the constitution was more or less of a compromise.

The nearest approach to a general principle governing the two taxing powers is that the federal government shall rely upon indirect, and the state governments upon direct taxation. This is true only in a large sense, as we shall see that some state revenues are derived by indirect means; but where federal revenues approach the direct class, as in the case of the military exemption tax, it will be observed that the states take a hand in the administration.

The regular sources of revenue are enumerated in the constitution as follows:[1]

a. The income from federal property.

b. Proceeds of the federal customs levied at the Swiss frontier.

c. Proceeds of posts and telegraphs.

d. Proceeds of the powder monopoly.

e. One-half of the gross receipts from the military exemption tax.

f. Contributions of the cantons, which shall be determined by federal legislation, with special reference to their wealth and taxable resources.

The federal fortune consists of loaned funds, real estate, buildings, fortifications, powder mills, and other property,

[1] Fed. Const., Art. 42.

some of which is productive, but a large part is probably only a source of expense. The income from domains amounts to about five-tenths per cent of the total revenue, while the cash capital produces varying returns according to the condition of the loans; in 1889 less than three per cent of the whole.

By far the greatest source of revenue is the tariff on imports. As soon as the new constitution could be put into working order, steps were taken to tax articles of commerce entering from foreign countries, on a single uniform plan. The principles which were followed were entirely financial and in no sense prohibitive or protective. This was the character of the law passed in 1849, and the same ideas have prevailed ever since. Changes have been made from time to time to correspond with new conditions or new commercial treaties, but the government has always kept as near free trade as good financiering would allow, aiming to tax necessities lower than luxuries, and to lay as little burden as possible upon materials needed in the industries and agriculture of the country.[1] The system of assessment of duties differs from that of England, in that, instead of a few articles being selected to stand as much duty as they will bear, a large number, almost every commodity in fact, is taxed a little. The schedule of rates contains over eight hundred articles which are subject to import duty.[2] Certain commodities, chiefly raw materials or waste products for home manufacture, are admitted free, sometimes through treaties of reciprocity, sometimes without. A few export duties have also been in existence since 1849, chiefly on timber, live stock, and certain raw materials. But the amount of revenue is very small, and the percentage, in comparison with the receipts from imports, constantly decreasing.[3]

The next greatest source of income is the Department of

[1] Fed. Const., Art. 29.

[2] Volkswirthschafts Lex., p. 481–517. Tariff Laws in Wolf, p. 437, etc.

[3] In 1889 the whole amount received from export duties was 121,480 francs, from import duties 27,190,265 francs.

Posts and Telegraphs, in which the carrying of the mails yields the most, the telegraph and telephone about one-seventh of the whole, and railroads as yet an inconsiderable amount. But the expenditures of this department are always nearly as great as the income. The rates of postage are low and the facilities excellent, so that we may say that, as in the United States, the postoffice is not intended to be so much a financial resource as a public convenience.[1] For some years the federal government has also had the power to lay a tax of fifty francs upon every kilometer of railway in active service, whenever the net profits of management, after providing for a sinking fund, reach four per cent. Should the profits exceed four per cent, the tax may be increased to a maximum of two hundred francs per kilometer. Hitherto this has amounted to very little.[2]

The powder monopoly yielded at one time considerably more than was expended upon it. While large quantities of powder were in demand for quarrying and for great engineering enterprises in connection with railways, the government was able to regard it as a thriving business, but when new and more powerful explosives[3] came into favor, this industry was obliged to fall back into the function for which it was originally intended, namely, to be a certain and secure source of ammunition in time of war. The highest returns were made in 1858, when the net gain was 238,211 francs. Since

[1] See chapter on The Confederation and Society. The gross income of the Postoffice Department in 1889 was 26,990,330 francs; expenditures, 24,155,690, leaving 2,834,640 net income. The rates of postage are 5 centimes for local, 10 centimes for general letters, newspapers 1 centime per 50 grammes. In the amount of correspondence transported, per inhabitant, Switzerland stands above all the other countries of Europe except Great Britain; it expends more on its postal service than any. See Volkswirth. Lexikon, "Post."

[2] Amtliche Samlg., XI., I., Art. 19; Wolf, p. 586. A list of objects of taxation in Switzerland will be found in U. S. Consular Reports, Nos. 99–100, 1888.

[3] Fed. Const., Art. 41. Explosives not available as gunpowder are exempt from the monopoly.

then the profit has been as low as 43,426, and in 1888 was returned at 165,905 francs.[1]

The military tax is laid upon all citizens liable to military duty who do not perform personal service with the troops. As stated in another place, every able-bodied man is under obligation for a certain period to go into camp with the militia and to be called out as occasion requires. Persons who do not pass the physical examination, or who wish to avoid the inconvenience, may pay a tax instead. This is based on both property and income and consists, first, of a personal or poll tax of six francs, second, a property tax of one and a half francs for each thousand francs of net fortune, third, an income tax of one and one-half in one hundred francs net income. Properties of less than 1000 francs and the first 600 francs of income are exempt from this taxation; the burden laid on any one man shall not exceed 3000 francs a year, and from the thirty-second to the forty-fourth year of age, only one-half the ordinary assessment need be paid. Yet in years when the greater part of the active army is specially called into extraordinary service, the federal legislature has the right to raise the tax to twice the normal rate.

In the levy of this tax, net fortune is made to include all real and movable property minus debts and encumbrances. Agricultural property is listed at three-fourths of its selling price, and household goods and tools are exempt. Net income comprises the receipts from the pursuit of any art, profession, business, industry, office, or employment. The expenses incurred in obtaining these earnings are deducted, also necessary household expenses and five per cent of the capital invested in a business. Annuities, pensions, and other similar revenues are included in the calculation of income.

Even Swiss citizens who are residing abroad are liable to the military tax, lists being made out each year and notification sent from the canton where the person is a citizen. Parents are responsible for minor children and for those

[1] Volkswirthschafts Lexikon, 632, etc. Estimate, 1891, 166,000 francs.

sons who, though of age, remain a part of their household. The levy is made and the tax collected by the canton governments, which retain one-half of the gross receipts and turn over the balance to the confederation.[1]

The confederation may also call upon the cantons for direct contributions according to their ability to pay, and a scale has been established by which the quota of each state is measured. This law was passed in deference to the old state-rights ideas which, like those which prevailed in the American confederation, could not endure the notion of a direct tax laid upon individuals by the central government. Various considerations govern the rate of this scale, as population, nature of the country, character of industries, and ability to pay. Having balanced all these with one another, the cantons were divided into classes with graduated rates, rising from ten to ninety centimes for each inhabitant. The lowest is the sparsely populated mountain district of Uri. Such large and prosperous states as Zürich, Bern, Aargau, Vaud, and Neuchatel are returned at fifty centimes, while the highest rate is placed on the thickly settled and thriving industrial city of Basel. The schedule is an interesting comparative table.[2] By the law of 1875 the rate was fixed for twenty years on the basis of the census of 1870, according to which the amount upon which the confederation could rely is 1,172,224 francs, but this may better be considered a financial reserve, since the tax has never been called for.

---

[1] The share received by the federal government in 1889 was 1,331,983 francs.

[2] Scale of taxation for the army contingent fund:

Class I, 10 centimes per inhabitant. Uri.

Class II, 15 centimes. Obwalden, Nidwalden, Appenzell Interior.

Class III, 20 centimes. Schwyz, Graubünden, Valais.

Class IV, 30 centimes. Glarus, Zug, Ticino.

Class V, 40 centimes. Luzern, Freiburg, Solothurn, Basel-land, Appenzell Exterior, Schaffhausen, St. Gallen, Thurgau.

Class VI, 50 centimes. Zürich, Bern, Aargau, Vaud, Neuchatel.

Class VII, 70 centimes. Geneva.

Class VIII, 90 centimes. Basel-stadt.

Since 1881 the central government has used its privilege of inspecting and controlling banks of issue. Federal laws regulate the amount of notes to be circulated, the reserve fund, the method of redemption, and the publication of reports.[1] The government cannot assume the emission of notes as a monopoly nor guarantee the notes in circulation, but by uniform laws it assists in making business regular and safe. The Federal Council may even demand daily statements of accounts. In return for this supervision, a tax is levied on such banks at the rate of one franc for every thousand in circulation.[2]

There are also many small items which go to make up the revenue of the various departments which need not be mentioned here. Fees for naturalization, registration of patents, of commercial houses, and a multitude of other rivulets contribute to the grand total.

A matter which is perhaps related as closely to the morals as to the finances of the confederation is the alcohol monopoly. This might also be treated properly under the head of cantonal financiering, were it not that the administration is entirely in the hands of the central government. But as yet neither the social nor the fiscal elements have had time to show their fullest results, and we can do little more than to state the law and some things expected from it.

In adjusting the complicated claims of state and confederation to the various channels of revenue, the makers of the constitution of 1848 allotted the taxation of spirituous liquors to the former. The cantons were allowed to levy excise duties at their borders, and communities could lay additional taxes at their gates.

This arrangement was indeed a restriction of the guaranteed free trade within the confederation, but was a compromise which seemed almost necessary to settle the dispute

[1] Volkswirthschafts Lexikon, p. 557.

[2] This yielded in 1889 a gross return of 153,495 francs. Estimate for 1891, 175,000 francs.

between central and local government. In the revision of 1874, however, in return for the assumption by the confederation of greater responsibility in military affairs, it was agreed that the cantons should drop all duties on liquors after the year 1890. But this date was anticipated, first, by the constitutional amendment of 1885,[1] which placed the power of making general laws on the subject in the hands of the confederation, and, second, by the statute passed in 1887, and adopted by popular vote, which made the manufacture of alcoholic liquors a federal monopoly.

The project brought about much discussion, but the way had been prepared by extensive investigation of the systems of other countries, and the vote showed that two-thirds of the people were in its favor.[2] The system is not entirely a new venture, but Switzerland has perhaps gone into the matter more scientifically than has ever been done before, and her experiments will be watched with interest.

The principal features of the Monopoly Law are these: the right to manufacture distilled liquor belongs exclusively to the federal government; it does this by contract either with home or foreign distillers, but at least one-fourth of the quantity required must be manufactured by domestic companies, to whom the government makes allotments from time to time; in order to encourage agriculture, the distillation of certain native fruits and roots is exempted from the monopoly and made free to any one. This practically makes the confederation the sole distiller of all alcohol made from grain, potatoes and all articles from which the higher grades of liquor are made.

The government is also a distributor of liquor in quantities not less than 150 litres, and fixes the prices itself. Spirits used for technical and household purposes must be sold at cost of manufacture, and before delivery are to be reduced

[1] Fed. Const., Art. 31b, 32 bis.

[2] Translation of this law in U. S. Consular Reports, No. 81. Some details have been modified since this was published.

(*denaturirt*) by the addition of wood-spirits, or other mixtures which render them unfit for drinking. The peddling of liquor from house to house is entirely forbidden except for the kind last mentioned. Retail dealers require a license from the cantonal authorities where located, and pay a graduated tax according to the amount of sales. The traffic in quantities above forty litres is considered wholesale and under no restrictions.

The administration of the liquor business, as will be observed, is entirely in the hands of the federal authorities until the spirits reach the retail dealers; there the states step in to regulate the number and character of the dram-shops, to make any necessary sumptuary and police laws, and to exact such license fees as may seem best.

The net profits of the government management are collected by the federal authorities, but divided entirely among the states in proportion to population. The cantons on their part are obliged to expend at least ten per cent of this dividend in suppressing the evils of intemperance, and to report annually to the federal government.

The transition from private to government manufacture was accomplished, not by confiscation, but by indemnification. Distilleries, in order to continue operations, must be large enough to supply at least 150 hectolitres a year; all others were obliged to shut down, but received the minimum value of their plant, not counting the good-will of the business, by way of damages. This change had the effect of closing up about 1200 establishments,[1] at a cost of 3,655,095 francs.

This was not the only great financial problem laid before the federal government at the inauguration of the new system, for at the same time that the monopoly was placed in their hands,[2] it was also ordered[3] that if a statute on the subject was put in force before 1890, the losses to the cantons from

[1] Leaving but 68.

[2] Const. Amendment of 1885, Art. 34 bis.

[3] Fed. Const. Uebergangsbestimmungen, Art. 6.

the abandoned tariffs and excise duties should be made good. As the law went into effect on the first of September, 1887, indemnity for the taxes of three years became due to sixteen cantons and two communities. For the years 1887–88 this amounted to 5,423,020 francs, and absorbed all the profits of the monopoly and 465,000 francs more; but in 1889 the business had gotten firmly on its feet, and not only were the cantonal deficits paid, but 884,565 francs divided among the other states.

The monopoly is protected from outside competition by a tax of eighty francs per hectolitre upon all high-grade liquors brought into the country, and by a graduated scale of duties upon all containing less than 72 per cent of alcohol. No one except the government is permitted to import alcohol for industrial purposes, because the reducing process must undergo inspection in order to prevent fraud. In getting its supply for the market the government may purchase three-fourths of the demand for all kinds anywhere it chooses. The other fourth, as mentioned above, must be of home manufacture, and the government has not exceeded that limit because spirits can be bought cheaper abroad than at home. Almost all the alcohol intended for industrial purposes comes from Prag, Vienna and Pilsen, received at an average price of about 27 francs and sold at 45. Liquors for drinking purposes are contracted for at prices ranging from 72 francs to 88 per hectolitre, and sold at 120 francs and above.[1] The distribution is effected through nine depots, located at various convenient points.

The financial operations of this branch of administration in 1889 amounted to about eleven and a half million francs, from

[1] The law requires that the price shall not be less than 120 nor more than 150 per hl. pure spirit (Art. 5). This amounts to 140 and 175 for liquors 95 per cent pure. Prices of fine liquors in America, March 1891, are about as follows, translated into hectolitres and francs: Whiskey 138 to 142 fr. per h.; pure alcohol 250 fr. per h.; wood alcohol 138 to 175 fr. per h. Here the monopoly privilege is replaced by a high federal tax.

which the net revenue was 5,249,053 francs. This we may see to have been chiefly due to the mercantile profit on liquors for drinking purposes, since industrial spirits must be sold at cost. Hence, as a business enterprise the monopoly is certainly a success. When we inquire into the moral and social results there is at present less that is tangible to be observed. The expectations of the promoters of the scheme were that the evils of drunkenness would be reduced both by decreasing consumption and by providing purer quality of drink. The latter end is obtained by government inspection, not only of the monopoly distilleries, but also of the smaller establishments manufacturing the free products.[1]

In the matter of consumption there would seem to have been a decrease. In 1885, before the introduction of the monopoly, the total demand was for about 150,000 hectolitres of distilled liquors for drinking purposes, while in 1889 the amount sold by the federal government was 67,242 hectolitres. But it would not be safe to say that the country had become temperate to this extent, for there is strong reason to believe that much of the reduced alcohol intended for the arts is either purified again and used for drinking or consumed outright in its mixed state.[2] Something will have to be done to render purification impossible before trustworthy statistics can be given as to decrease of drunkenness.[3]

The tenth part of the revenue which is to be used for the suppression of the vice will, of course, be applied in various ways. Zürich, in 1889, made the following disposition of its portion; 9000 francs to establish an inebriate asylum, 10,000 francs for the enlargement of an institution for feeble-minded

---

[1] Fed. Laws.

[2] Bericht d. Bundesrath, 1888.

[3] The administration suggests that the price of spirits be raised so that people will be driven to use less expensive and less harmful drinks. The budget for 1891 estimates the sale of liquors for drinking at 11,424,000 francs, for technical purposes 1,265,000 francs. The estimated total receipts from the monopoly are 13,660,000 francs, expenditures 7,830,000 francs, leaving a balance of 5,830,000. Bundesblatt 1890, No. 53.

children, 5000 francs to the police authorities for the relief of poor travelers, 2000 francs for a fresh-air fund[1] for school children, 1000 francs to the temperance Society of the Blue Cross, and the balance, about 3400 francs, kept in reserve to help communities to get their inebriates to the asylum.[2]

The use of liquor will by no means be brought under control so long as the distillation of low grades of fruit spirits and the manufacture of malt drinks is under no restriction. No one can tell whether the apparent decrease in the consumption is not merely a diversion of appetite to apple-jack and absinthe, or perhaps to increased use of beer and wine. The sociological side of the question needs a longer time to work out a solution. The financial prospects will be favorable so long as nine-tenths of the income are set apart to pay taxes and one-tenth to making war on intemperance by means of asylums and summer excursions.

To recapitulate briefly the financial operations of the central government, it may be observed that the total revenues from all sources are about sixty-five millions of francs. To this amount the customs duties contribute very nearly half, followed at a long distance by the net profits of the postoffice department and by the military exemption tax. This latter is the easiest of all the revenues to obtain, since all expenses of levy and collection are assumed by the cantons and the gross receipts equally divided. However, for the amount involved, the customs duties are very economically administered, the cost of collection amounting in 1888 to 7.4 per cent. The largest item of expense is the army, consuming in all nearly forty per cent of the revenues, and over sixteen millions of francs more than its own specific income. Although carrying on no wars of its own, nor joining in the conquests of other countries, Switzerland is compelled to undergo this great expense in order to preserve her neutrality and the integrity of her borders.

---

[1] Ferienkolonien.

[2] Hilty, Politisches Jahrbuch, 1890, p. 955.

In the Department of the Interior there was expended in 1888 for all matters coming within its sphere—public works, education, statistics, and the like—about four and one-half millions of francs, or something over seven per cent of all expenditures. Lawmaking, or the cost of maintaining the two houses of the legislature, amounts to about forty-two thousand dollars a year, as compared with the three millions spent by the United States.[1] Education, as noted in another place, being left largely to the cantons, does not occupy a large portion of the federal budget.

The public debt of the country, although not a serious weight upon the prosperity of the state, is still a matter which occupies the attention of its financiers and political economists. In 1849 the federal debt was about 5,865,000 francs, and was reduced in a few years to little more than 1,200,000, but the public improvements which have been going on, especially since 1867, have brought the outstanding liabilities far away from those modest proportions. On January 1, 1890, the total debt, including the coin reserve, amounted to over forty-six millions of francs. 5,200,000 of this was recently created for the indemnifications made necessary when the government assumed the alcohol monopoly.

The annual interest charge on the above date was 2,221,766 francs.[2] Considering the thriving industrial condition of Switzerland, the amount of these obligations is not very great. It stands very much in the shadow of the debts of larger states like Russia or the United States, but even in view of the small size of the country, with but three millions of population, the burden amounts only to about fifteen francs per inhabitant, and is carried at low rates of interest.

---

[1] Estimates for the legislature and judiciary for 1891: Nationalrath, Fr. 231,000; Ständerath, Fr. 21,400; Bundesrath, Fr. 85,500; Bundeskanzlei, Fr. 349,100; Bundesgericht, Fr. 154,600; Total, Fr. 841,600. Bundesblatt, 1890, IV., p. 1050.

[2] Almanach de Gotha, 1891.

CHAPTER X.

The Confederation and Society.

It will be seen from the second article of the constitution, that the central government was not only provided with the ordinary powers of police, to protect the country from danger without and to keep peace within, but upon it was also laid the task of promoting the common welfare. To the cantons were left those social relations purely connected with locality; yet there remained a large body of affairs, now local, now general in their nature, which it was eminently desirable should be uniformly administered, or, as in the case of public works, should be undertaken by the whole people.

Hence one of the first matters to demand the attention of the framers of the constitution of 1848 was, very naturally, the establishment of free trade among the states. The endless vexations arising at the boundaries of every little state, the transportation privileges, the taxes on change of residence, which prevailed so long under the old regime, were as much as possible put aside by the first constitution, and still more by that of 1874. All import and export duties are now collected at the federal frontiers, and commercial freedom, except in a few matters, is guaranteed throughout the whole country.[1]

The exceptions to the free movement of goods are connected either with the financial or the sanitary operations of government. The monopoly of the sale of salt is retained by the states, in some cases as a source of revenue, in others as a public utility. The manufacture of gunpowder is a monopoly of the confederation, maintained as a part of its military system. The manufacture of alcohol and spirituous liquors has also recently been assumed by the federal government, in

[1] Fed. Const., Art. 28, Art. 31.

an attempt to mitigate the evils of the traffic, and still other measures may be taken which limit the freedom of commerce when epidemic diseases threaten, as has been notably the case with cattle-plagues and the phylloxera.

The federal authorities may make regulations respecting the exercise of any class of industrial or commercial enterprise, but must not violate the principle of commercial freedom.[1] In exercise of this right, laws have been passed which regulate the manufacture and sale of matches,[2] the guarantee of fineness in the manufacture of gold and silver wares,[3] and the traffic in gold and silver waste products.[4] All of these are intended to obtain safety and uniformity for all concerned.

Factory laws for the control and regulation of the sanitary condition of workshops, the employment of children, and for the establishment of responsibility for accidents to employees, have been in force since 1877.[5] One system of inspection for the whole country is thus secured. Also within the sphere of federal legislation and supervision are agencies for foreign emigration and private insurance companies, although where insurance is undertaken by cantonal governments the confederation has no right to interfere. Patents for inventions, copyrights for books and works of art, and trade-marks for articles of commerce are issued also by the central government.

The efforts to establish uniform commercial laws for the whole of Switzerland have been much hindered by sectional opposition, but have finally been able to attain a reasonably satisfactory condition. One of the best results of the work of unification is the Federal Law of Contracts (*Obligationenrecht*) passed in 1881,[6] which is in itself an exhaustive treatise on the subject of commercial law, and defines all classes of agreements and liabilities as they shall be observed

---

[1] Fed. Const., Art. 31e.
[2] Amtliche Smlg. N. F., VI. 499, Wolf, 298.
[3] Ibid. X. 45, Wolf, 305. [4] Ibid. IX. 266, Wolf, 317.
[5] Fed. Const., Art. 34, Amtliche Smlg. N. F., III. 241, Wolf, 288.
[6] Amtliche Smlg. N. F., V. 635, Wolf, 173.

throughout the confederation. Finally, in April, 1889, a general bankruptcy law was passed, which regulates the collection of debts[1] according to a uniform system.

One industry has been entirely forbidden. Gambling houses are the subject of constitutional enactment, and their establishment is prohibited. The large gaming tables which formerly flourished so abundantly at summer resorts were given to the first of January, 1878, to close their doors, and have since been under the ban of law.[2] Lotteries may also be made the subject of federal legislation, and have received attention in the law of obligations so far as to establish that no liability can grow out of lottery dealings unless the lottery has been permitted by competent authority.[3]

The management of posts and telegraphs, including also parcels post, is under the exclusive control of the confederation.[4] To an American observer the national mail service has become so much a matter of course that he can hardly realize that one of the greatest steps in advance over the old system was taken only forty years ago. Formerly each state had managed the postal arrangements in its own territory, and such meagre unity as existed was obtained only by loose agreements between adjacent cantons. Then each state was more mindful of the financial than of the social aspects of the question, and a comprehensive and regular system was impossible. As compared with surrounding nations, Switzerland presented a pitiable aspect of disjointedness. Efforts had been made as early as the projected constitutional revision of 1832 to place the postal service under federal control, but these did not succeed until 1848. The states thus obliged to give up their rights were satisfied with indemnities which

[1] Comments by A. Zeerleder, Das Bundesgesetz über Schuldbetreibung und Konkurs. Bern, 1889. Eug. Borel. Same title, Neuchatel, 1889.

[2] Fed. Const., Art. 35.

[3] Oblig. R. 514, 515.

[4] Except that railways have the right to maintain telegraph lines along their roads for their own service.

were to amount to nearly one and a half millions of francs a year.[1] In assuming the monopoly, a thread connecting this century with the Middle Ages was severed by the purchase of the transportation rights of the German Counts of Thun and Taxis, which were still in force in Schaffhausen. The indemnities to the states, however, were settled at the revision in 1874, according to which, exclusive control and benefit of income were given to the confederation in return for certain changes in the military taxes.[2]

The postal service undertakes the transmission of letters, printed matter, parcels, money orders, and over certain stage routes transports passengers. The administration is very carefully conducted, and rapid and safe communication with all parts of the country is obtained.[3] The financial aspects of this department are considered in another place.[4]

The monopoly of telegraphs was established first by a federal law in 1851. At the time of the adoption of the constitution of 1848 this means of communication was not sufficiently developed to gain recognition, but took its place naturally in the revision of 1874. The confederation has the right to erect lines either above or below ground through any state, but always after consultation with the cantonal or community authorities through whose territories it is proposed to pass.[5] The operators and clerks are federal appointees, as in the Postal Department, and subject to all the laws governing such servants of the state.[6]

---

[1] Blumer, I. 553. [2] Protocol Bundesrevision, p. 281.

[3] Postal laws are found in special handbooks issued by the department, and in Wolf, p. 501, etc.

[4] See Federal Finance.

[5] Amtliche Smlg., VII. 329, Wolf, 564, 565.

[6] A uniform tariff is established for telegrams between all parts of Switzerland. For the sending of a message between any two stations, and its delivery within a radius of one kilometer from the receiving station, the charge is as follows: (1) A fixed payment of 30 centimes (*Grundtaxe*); (2) for each word, including the address, 2½ centimes. So that the charge for a telegram of ten words with eight words in the address would amount to 75 centimes, or 15 cents.

The laws regulating railways proceed only from the confederation.[1] The government has never undertaken to manage railroads on its own account, though by the terms of certain concessions some short lines are at its disposal. The question as to whether the confederation shall buy out all the existing roads is often brought forward, but as yet not fully settled. A most important step in this direction was taken during the year 1890, by the purchase of a large share of the preferred stock of the Jura-Simplon railway, one of the largest systems in Switzerland. This does not necessarily mean immediate federal management of the line, like the administration of posts and telegraphs, but the purchase makes the government the controlling stockholder and financial manager. With this important railway in hand, the assumption of all the other lines at some future time will not be difficult, and we may look forward to advancement in that direction.[2] The confederation has established very minute laws as to the construction and conduct of such enterprises, and maintains a close supervision over their administration. Regulations for the technique of railroad-building extend to the width of track, strength of axles, height of buffers, and even to the lettering of cars, so that uniformity and safety are provided for as much as is possible without state ownership.[3] But one of the most useful spheres of governmental action lies in the regulation of the financial management of these undertakings. Federal law prescribes the method of keep-

[1] Fed. Const., Art. 26.

[2] The conditions of the purchase will be found in Bundesblatt, 12 July, 1890, Vol. III., p. 967. An interesting sketch of federal railway politics since 1852 is in Hilty, Polit. Jahrbuch, 1890, p. 959, etc.

[3] By a law passed June 27, 1890, railway and steamboat employes enjoy federal protection similar to that given to other industries by the Factory Law. The hours of labor are limited to twelve, with an unbroken period of rest for at least eight hours a day. Employes shall have fifty-two free days each year, and at least seventeen of these shall occur on Sunday. Freight traffic is forbidden on Sundays except for stock and perishable goods.

ing accounts which railways must follow; what shall be considered expense and how classified; what shall be credited to profit and loss; what shall be considered capital, and what shall be charged to improvements and new service; and, further, the methods by which stock shall be transferred, indebtedness incurred and liquidation carried out. The companies must balance their accounts at the close of every calendar year, and before the last day of the next April must lay printed copies of their reports before the Federal Council. Here it undergoes inspection by the Department of Posts and Railroads, control being thus maintained over the management, in the same way that National Banks are controlled in the United States.

The value of these regulations is obvious. They give protection, not only to the state against operations prejudicial to its welfare, but the interests of the stockholder and bondholder are served in a high degree by the publicity of accounts. While gambling in railroad stocks cannot thus be done away with, yet manipulation of funds, the "hypothecation" of bonds and much contract jugglery can be headed off completely. The statistics of railway management, such as the United States government is endeavoring so hard to obtain by persuasion and is only partially successful, are in Switzerland brought to hand every year by federal statute, for the benefit of all concerned. Without actually managing the railways itself, the government has really brought about a high degree of centralization.

Since 1848 the coinage of money has been the exclusive prerogative of the confederation. The confusion of currency which was endured in the American Colonies and Confederation is not to be compared to the distracting disorder which prevailed in the monetary arrangements of Switzerland. There were as many coinages as states, and almost as many different systems and bases of value. From so many sources it was impossible to regulate the issue according to the necessities of trade, even if this could endure the endless calculations of

exchange. Efforts were made to bring about reform, but these fell with the projected constitutions of the thirties. Under the new confederation the matter was simply turned over to the federal authorities, and they, after careful consideration, adopted for uniform currency throughout Switzerland the coinage system of France, which had already gained a partial foothold. The unit of calculation is the franc, divided into 100 centimes (German *Rappen*) and coined in various multiples. By the treaty of 1865, Switzerland entered the Latin Monetary Union, so that now her coinage is on a uniform basis not only with that of France, but also of Belgium, Italy and Greece.[1]

"The establishment of weights and measures belongs to the confederation. The administration of the laws on the subject is carried out by the cantons, under the supervision of the confederation."[2] This order of things was brought about finally in 1874. The cantons had already, before the establishment of the confederation, endeavored to help themselves toward uniformity by means of a concordat, and were prepared for the provision of the constitution of 1848 which granted the federal government the right to establish a general system on the basis of the existing agreement. But resistance was encountered in the Romance cantons, which was not wholly laid till the matter was put into the hands of the central government without reserve. Then the metric system was adopted, and finally made obligatory.

As a matter of general interest to the whole people, the confederation superintends the maintenance of such highways and bridges as contribute to the welfare of the union. The care of roads is in reality the duty of the individual states, but by keeping an oversight upon interstate and international thoroughfares of communication a greater certainty of good highways is obtained. Works of a larger nature are also supported in part by federal subventions. Four of the

[1] International Mon. Conf. 1878. Appendix, p. 779, etc.
[2] Fed. Const., Art. 40.

mountain cantons receive annual subsidies for maintaining the Alpine passes within their territories,[1] and such undertakings as the Gotthard tunnel have been heavily supported. The confederation is able to discipline these subsidized cantons in case they do not properly maintain their roads, by withholding the sums allowed them.[2]

In general it may be said that the confederation is expected to assist in the construction of public works which exceed the powers of single states. The improvements of rivers, protection against avalanches, and other matters of like nature have had the support of the federal legislature. In order to carry out such projects the confederation may exercise for itself the right of eminent domain, and in case an undertaking on the part of a canton threatens injury to the military interests of the country, may forbid its construction.[3]

Supervision of the general welfare of the country extends also to the forestry of the Alps, where great precautions must be taken against torrents and snow. Fishing and hunting and the protection of useful birds may also be made the subject of general laws, although the right to hunt and fish is regulated by cantons or communities, as stated elsewhere.[4]

Education.

In the matter of education, the part played by the central government does not exhibit to advantage what is done by the Swiss people as a whole. Schools and universities are nearly all maintained by the cantons, and the work done by them is treated more fully under the head of State Government, yet the confederation contributes a respectable amount to the advancement of learning and supplements in many ways the efforts of the states.

---

[1] Fed. Const., Art. 31. Uri, fr. 80,000; Graubünden, 200,000; Ticino, 200,000; Valais, 50,000.

[2] Fed. Const., Art. 37.

[3] Fed. Const., Art. 23.

[4] See Canton Finance.

The constitution of 1848 authorized the federal government to erect and maintain a polytechnic school and a university.[1] The first was founded in 1855, but the university has never been realized. The revision of 1874 went further in its provisions for education, by declaring that in addition to the existing *Polytechnicum* the confederation was authorized to establish a university and other institutions of higher education or to aid such institutions.[2] Furthermore, the obligation was laid upon the cantons to maintain primary education, which throughout the whole country must be compulsory, free of cost, open to children of all religious beliefs, and under the supervision of the state. If any canton does not fulfill these obligations, the federal government may take the necessary steps to compel it.

The interpretation and application of the clauses respecting primary education have been delicate tasks for the federal authorities, and perhaps await yet more satisfactory solution. Many of the cantons need no urging in the direction either of popular or higher education, supporting liberally universities, gymnasiums, seminaries, and carefully conducted public school systems, there being, besides the federal *Polytechnicum*, four universities with over three hundred instructors within this small territory of about three millions of inhabitants.

The confederation itself expended in 1887 upon the Polytechnic 579,000 francs.[3] It contributed further to the support of over one hundred technical and industrial schools and museums in the various states to the amount of 220,000 francs, and for agricultural education 61,659 francs. It also takes an interest in the preservation of national historical relics,[4] and promotes the cause of Swiss fine arts with an annual credit of 100,000 francs.[5]

---

[1] Art. 22. [2] Fed. Const., Art. 27.

[3] Grob, Jahrbuch des Unterrichtswesen in der Schweiz, 1887.

[4] Law of June 30, 1886. In 1889 a National Museum was established. Hilty, Polit. Jahrb. 1890, p. 1011.

[5] Law of Dec., 1887, Grob, Unterrichtswesen Anhang, p. 1.

The activity of the central government in the education of army recruits should be mentioned here. Military instruction is entirely in the hands of the confederation, and includes much beside the technicalities of drills.[1] By its examinations the state of primary education in the various cantons is exhibited, and by the publication of the statistics an honorable rivalry in this field is encouraged. The states have not allowed much interference with their educational systems, but this general superintendence on the part of the confederation has exerted a favorable influence for uniformity and excellence.

The Confederation and Religion.

The relations of the central government to religion and worship are of a general rather than of a particular nature. To the cantons have been left the management of church societies and the local machinery of religious expression, to the confederation the great principles upon which all are founded. Against violation of these the citizen may appeal to the federal constitution, and may invoke the powers of the federal government in his behalf.

In brief, these general principles are as follows:[2] freedom of conscience and of belief is inviolable; persecution, either on the part of the state or of other religious sectarians, cannot be suffered; nor may any person be compelled to join any religious society, nor to participate in any religious instruction or worship without his own consent. This principle is also involved in the provision mentioned above, which declares that the public schools shall everywhere be so conducted that members of all confessions may attend without injury to their religious feelings or violation of their consciences. In order to settle any controversies which might arise between parents of different confessions, the constitution provides that the religious education of children up to

[1] See "Military System," above.

[2] Fed. Const., Art. 49–53.

the end of the sixteenth year shall be determined by the father or the possessor of the paternal authority.[1]

The exercise of civil or political rights cannot be abridged by regulations or conditions of an ecclesiastical or religious nature. In other words, a man may not be deprived of any of his civil rights because he does, or does not, belong to this or that denomination. Switzerland was slow in coming to this point. Even by the constitution of 1848, only the Christian religion was recognized. Israelites and others had no guarantee whatever, except what public opinion could furnish, but in 1874 all distinctions were laid aside.

But if religious opinion cannot deprive a citizen of his rights, so neither can the state be deprived of his services on account of his private opinions. Sectarians who refuse to carry arms may be compelled to do so.[2]

No one shall be required to pay taxes which are levied especially for the purely religious purposes of any society to which he does not belong. The presence of an established religion in many of the cantons makes the interpretation of this clause, and especially the formulation of a federal statute on the subject, quite difficult.

The Federal Council and the Federal Court have, however, spoken to the effect that no one can refuse to pay the general cantonal or general community taxes, out of which in so many states the church is supported.[3] The tax to be illegal must be for the exclusive use of a particular cult. Levies voted for matters which serve both religious and civil purposes, as bells, tower-clocks, or grounds for cemeteries, would not be considered special religious taxation.

The freedom to exercise religious worship, within the bounds of good morals and public order, is guaranteed. Any attempts

---

[1] "Inhaber der väterlichen oder vormundschaftlichen Gewalt."

[2] Langhard, Glaubens- und Kultusfreiheit, p. 121. Yet when such cases come up among recruits, officers have been known to compromise with conscientious non-combatants, by placing them in the hospitals or other similar service.

[3] Langhard, p. 73.

on the part of different sects to interfere with each other, or of ecclesiastical authorities to usurp the functions of the civil government, would be checked by the cantons as well as by the confederation. Appeal in any such cases might be had to the federal authorities, with whom lies the guaranty of equality.[1]

The establishment of bishoprics within Swiss territory must be done only with the consent of the confederation. This is aimed at the prevention of divided allegiance, which would arise where a bishopric included territory of foreign governments. Considerable trouble has been experienced with the Roman Catholic Church on this account. In early times their dioceses paid no attention to national boundaries, and when it became necessary to reorganize these divisions, no little dispute arose and has not yet been fully settled.

The order of the Jesuits and societies associated with it are forbidden to locate anywhere in the country and their activity in church or school is entirely prohibited. The establishment of new monasteries or the reopening of any suppressed cloister is also forbidden. The downfall of the Jesuits in Switzerland was caused by their incessant interference in affairs of state and the intense ultramontane character of their policy. It was chiefly their agitation that brought about the conflict of religions which resulted in the secession of the *Sonderbund* and very nearly the downfall of the republic. It was determined that in future that particular

[1] The opposition experienced by the Salvation Army for a time called in question the religious liberty supposed to exist in Switzerland. The restrictions placed upon the public performances of these missionaries came from the state authorities and were at times severe, but were established in the interest of peace rather than on account of religious intolerance. The federal government also for a short time interfered, but afterward withdrew its orders, and in 1890 refused to adopt prohibitive measures which were urged upon it. The appearance of the Salvation Army does not now awaken the former opposition on the part of the people, and measures to prevent riots can be safely left to the state governments.

activity should be excluded, since without the agitators the people would soon learn to accommodate themselves to each other's religious views.

Finally, in some minor points in which ecclesiastics might possibly exert undue influence, the civil authorities have been given by the constitution a control which in former times they did not have. The registry of births, deaths, marriages, and civil status was placed entirely in the hands of public officials, and to prevent misunderstandings between the church and the unfaithful, it is laid upon the civil authorities to see that every deceased person shall be decently buried.[1]

The latest addition to the social functions of the confederation is the power to enforce general and compulsory invalid and accident insurance. By an almost unanimous vote of the national legislature, a constitutional amendment to this effect was passed in June and submitted to popular vote in October, 1890. The article[2] reads as follows: "The confederation will by statute establish invalid and accident insurance, having regard to already existing invalid funds. It may declare participation to be obligatory upon all, or upon special classes of inhabitants."

It yet remains to be seen what kind of legislation will be erected upon this basis. There seems to be a strong demand for something of the kind just at present, and doubtless whatever is enacted will have the support of public opinion. The subject connects itself on one side with existing factory legislation, as better protection for the industrial classes, and in another sense is a part of the problem of poor relief. The parliamentary committee in their report took a conservative view of the matter, and endeavored to forestall the rose-colored anticipations of radical advocates of such measures. They expected this movement to be only a single step in

[1] Fed. Const., Art. 53.

[2] Fed. Const., Art. 34 bis. The article was adopted by a vote of 283,228 against 92,200. Bundesblatt, 1890, p. 1128.

advance, and to express their moderation dropped the designation "labor insurance," so commonly used by agitators, and called the project simply invalid and accident insurance. Doubtless the benefits will be confined chiefly to the laboring classes, but it was not intended as a universal panacea for labor troubles. We may expect a temperate trial of this enterprise based on the experience of countries where state insurance has been longer in operation.[1]

[1] A careful statement of the relations of this subject to other state activities will be found in Hilty, Polit. Jahrbuch, 1890, p. 762, etc.

CHAPTER XI.

The Confederation and the Individual.

Having indicated in meagre outline the organic structure of the federal government, its place in the complex life of the confederation, and its relations to the social fabric, it will be in order to point out briefly the individual rights which are especially under its protection.

In making up the sum of personal privileges which are enabled to be enjoyed, it will also be necessary to keep in mind all the social conditions which form the citizen's environment, and to remember that all the government activities mentioned in the previous chapters, which are exerted for the general welfare, are inseparable from the good of the private individual. To these may be added any particular elements which the confederation contributes directly to the safety and well-being of its members.

In respect to outward designation of these things, the Swiss government does not differ from many other enlightened states, yet the quality of the privileges may be quite apart. In the first place, there is guaranteed to every citizen equality before the law.[1] Not that every man is equal to every other man in his rights to possessions and preferment, but, when he appeals to the law or expresses his opinion in political matters, the lowest is as good as the highest. "There shall be in Switzerland no condition of political dependence, no privileges of place, birth, family or person."

2. Freedom of movement from one state to another may not be denied to any one who can show evidence of origin, nor shall the citizen who takes up a new residence be treated

[1] Fed. Const., Art. 4.

any differently from his neighbors. Persons coming from one state into another cannot be taxed more severely than old residents, nor for the support of both cantons. Foreigners look to the federal government for naturalization, though full adoption as citizens depends on the community and canton.[1] When citizenship is once obtained, no state can banish the possessor out of its borders nor deprive him of its privileges. The confederation retains the right to order unpleasant strangers to leave the country, but a Swiss citizen cannot be outlawed by any limits of time or absence from the country, except at the request of the person himself, and the regulations for the dissolution of allegiance are established by the central power. Foreign countries are not so willing to allow the perpetuity of these obligations,[2] but, so far as the home government is concerned, if you are a Swiss citizen once, you are a Swiss citizen always.

3. The liberty of religious belief, freedom of conscience and choice of worship, have been sufficiently stated under the subject of Church and State. It must be conceded that so long as the cantons maintain established religions, or even attempt to support the ministry of all the chief sects alike, there will be limitations to religious liberty not known in the United States. But to have cut loose all at once from the old state of things would have been too violent a change in 1848, or even in 1874. So far as private belief is concerned, no limitations are set, but as to taxation for religious purposes, complete freedom is yet to be obtained.

By removing the registration of births and marriages from the hands of any but the civil authorities, a possible limitation of religious liberty was broken down, since ecclesiastical powers might forbid the marriage of persons of different beliefs. This was a source of great controversy, often of hardship, in earlier times, but now the "right of marriage stands under the protection of the confederation, and cannot be

[1] Fed. Const., Art. 43–48.

[2] For instance, the United States, Wharton's Int. Law Digest, 172.

limited by any restrictions of an ecclesiastical or economic nature, nor on account of previous conduct or any other police reasons."[1] The parties may judge for themselves whether or not they will enter into this relation, and no artificial barriers can be thrown up by states or communities, either by non-recognition of foreign ceremonials, or by special taxation, bridal settlement fees, or similar demands.

4. To expression of opinion through the press the fullest liberty is guaranteed within the bounds of good morals.[2] Punishment for the criminal abuse of this privilege is exacted by the cantonal governments, though the laws under which this is done must be approved by the federal executive. On the other hand, the confederation has the right to punish press abuses which are directed against itself or the federal officials.[3] This might be made an instrument of oppression, but the criminal statute enumerates as indictable offenses chiefly matters of public concern, as incitement to insurrection, or to disobey or hinder the execution of federal laws. For personal affairs, as when officials or authorities are libelled, suit against the offender is brought, not by the government, but by the official or body injured.

5. The right of citizens to form associations cannot be impeached so long as their objects are not unlawful or dangerous to the state. The laws on the subject of the misuse of this liberty are, however, established by the cantons themselves.[4] The right to enter complaint of grievances in form of petition to government stands also under the protection and guaranty of the confederation.

6. If summoned to answer for his action in a court of law, no citizen can be made to appear before any other than the legally constituted tribunal of his place of residence. Hardship cannot be thus imposed upon a man by bringing suit in

---

[1] Fed. Const., Art. 54.
[2] Fed. Const., Art. 55.
[3] Bundesstrafrecht, Art. 69–72, 42, 43, 48, 59.
[4] Fed. Const., Art. 56.

a distant and untimely place, but only before the proper judges of his community or state.[1] This was one of the great principles for which the struggling confederation fought in feudal times and first obtained in the fourteenth century.[2] Now the whole power of the central government may be invoked to maintain the "*jus non evocando.*" Nor may extraordinary tribunals be erected for special purposes, nor shall ecclesiastical courts have any jurisdiction in civil matters. Imprisonment for debt, and all corporal punishments, are forbidden.[3] That sentence of death should not be pronounced for political offenses was an original provision of the constitution of 1848, but in the revision of 1874 this article was made to abolish all capital punishment except in time of war. A few years' trial of this, however, provoked great outcry from all sides, and in 1879 the legislature was compelled to submit the matter to popular vote. As a result, the punishment of death for crime was given back again to the option of the cantons, and only the guaranty of political inviolability retained by the confederation.[4]

7. The liberties and privileges in the domain of commerce and industry have been mentioned before, and it might then have been observed that while freedom of contract and free trade between states and, in general, unrestricted personal action were largely maintained, in reality, the social operations of the confederation and the cantons through their monopolies and industries, impose quite powerful limitations on the sphere of individual activity. These are not necessarily harmful to public welfare, but are nevertheless to be noted when speaking of personal liberty.

---

[1] Fed. Const., Art. 58.

[2] Chapter I., p. 8.

[3] Fed. Const., Art. 59, 65.

[4] An eminent jurist has recently made some very just criticisms of the states which called so loudly for the death sentence, but since getting the privilege have been commuting the punishment of criminals notoriously worthy of hanging. Hilty, Jahrbuch, 1890.

8. Finally, as a crown to the whole edifice of popular rights, the confederation guarantees to all citizens, not only the liberties and privileges contained in the federal constitution, but also those included in the laws of the cantons.[1] In becoming surety to each state for the preservation of its constitution, the federal government does not thereby intend to guarantee the continuance of any existing administration; it upholds only the powers which the people have granted to the authorities, and if constitutional liberties have been infringed, will defend the rights of the citizen. In the federal Supreme Court is found a tribunal where the individual may get redress, and in the federal executive the strong arm of enforcement.

[1] Fed. Const., Art. 5.

PART II

STATE GOVERNMENT

CHAPTER XII.

State Legislation.

As already indicated, the functions of government are divided between the confederation and the cantons in a manner similar to that prevailing in the United States. The federal power in Switzerland has, in some directions, greater scope than in America, yet there remains in both cases a large body of interests affecting the individual and the community, which are regulated by the various states in different ways, according to their differences in temperament, in language and historical development.

These differences were formerly more marked than at present: The original physical barriers between the different sections of the country were increased by artificial partitions built of jealousy and distrust; but modern methods of communication, the development of trade and industry, and the successful establishment of a central government have caused the idiosyncrasies of locality largely to disappear. States have in later days been more willing to try one another's experiments, and, as in the case of the *Referendum*, some institutions or changes have passed from one to the other until, in those respects, nearly all are alike.

Yet with all the tendencies to uniformity there still exist many diversities of detail, explained only by their own history, and worthy to be studied for their problems in political psychology. Every region, every hamlet has its peculiarities, but, in order to keep in view state government as a whole, only the outlines of variance will here be indicated.

The states, when classified according to their forms of government, may be broadly divided into Democratic and Representative, or, if we leave out of consideration for the

present the popular vote on the adoption of laws, there are states where the laws are made by the people assembled together in person, and others where this is done by delegates elected by the people to act in their stead. According to this division there are six governments in which the purely democratic or folk-mote system of legislation prevails, and nineteen in which delegated assemblies are more or less completely the sources of law.

If we examine into the real nature of the various governments, however, it will soon appear that this classification is not sufficiently exact; that the presence of an elective legislature does not necessarily make a state a representative government; and that, in fact, owing to the supervision assumed by voters over their lawmakers, there are in Switzerland twenty-four democracies and only one republic. The only strictly representative government is that of Freiburg. All the others are democratic in various degrees, according to the amount of original work left to the discretion of the legislature.

The highest form of democracy is found in the town-meeting cantons, where all the citizens come in person to discuss and vote upon laws; but this system is scarcely more democratic than the one employed, for instance, in Baselland, where the whole work of the legislature is at the close of each session submitted to popular vote. In some states only the more important laws are obliged to run the gauntlet of popular ballot, while in other governments it is optional to call them in question or not. Hence a more suitable arrangement is one which divides the states first into democracies and republics, and classifies the former according to the extent to which they employ either the Popular Assembly, the Obligatory Referendum, or the Optional Referendum.

The Landesgemeinde.

Of all methods of lawmaking the folk-mote plan is the most picturesque. It has attracted the attention of many

writers both on account of its primitive quaintness and its historical interest. But in some cases the impressiveness of the view has led the observer astray in his conceptions of the past and present of popular assemblies, and the *Landesgemeinde* in the hands of such has become a fetich with which to conjure up original Germanic institutions.

If the Swiss popular assembly is a survival of the tribal council of Tacitus, it must have survived, like the buried rivers of Greece, in subterranean obscurity, for the first *Landesgemeinde*, definitely mentioned in the records, occurred some twelve centuries after the Roman historian's time, in 1294. This was a meeting of the inhabitants of Schwyz, for the purpose of making regulations for the sale of their common lands and for taxation.

In 1314 another folk-mote is mentioned, at which these Schwyzer determined after long debate to undertake a warlike expedition against the abbey of Einsiedeln. How frequently such meetings occurred, or how widespread the custom was among other clans we are not informed, yet it is evident that the folk-mote had already become an established institution, a recognized authority with regular modes of procedure. It must have been in operation for some time, but when it began in Switzerland is as yet only a matter for speculation. As it emerges into history the *Landesgemeinde* is apparently an outgrowth of the feudal manorial court, or *Hofgericht*.[1] The countrymen of the Alpine valleys assembled together at the call of the lord's bailiff or deputy, to witness trials and to act as a popular jury upon disputes arising under the customary law of the region. They did not to any great extent legislate, they applied law; they did not elect the magistrate, they received him; as we see from the words of the First Perpetual League, where the compact does not revolt at the thought of judges being appointed for them, but against foreign judges, or such as had bought the place with a price.[2]

[1] See p. 5, above.

[2] Rambert, Études Historiques, 164.

Just when this assembly advanced to a fully self-governing body we may not positively determine, but we can understand how, having gained the point that only natives should be appointed magistrates, it would be an easy change, at some time when the feudal hand had weakened, to elect a man, instead of waiting for his appointment. As the political horizon grew larger, more of the functions of state would be assumed by the popular assembly, until it finally became supreme.

The changes which have taken place within what may be called the historical period, have been rather in the details than in the principles of popular government. Administration was obliged to conform to new and larger wants, but the final source of authority and the method of expressing its will have been the same. Not all the cantons which were originally governed by the folk-mote maintained it to the end. In the old League of Thirteen there were, after the Reformation, eleven *Landesgemeinden;* two each in Appenzell, Schwyz, Glarus, Unterwalden and Uri, and one in Zug. Schwyz became too large and too boisterous to be governed by a mass-meeting, and, in 1798, fell before the advance of the Helvetic Republic. It was made a part of the new unitary state and never returned to the original form. At the same time perished the democracy of Gersau, which had been for five hundred years an independent community within the borders of Schwyz. Glarus catholic and Glarus protestant became united in 1836, and only a year or two ago the separate assemblies of Uri were finally made one. Zug entered the list of representative governments in 1848, so that there are now but six states governed by *Landesgemeinden.* In their federal relations two of these are whole cantons and four are half-cantons.

The theoretical basis of folk-mote government is that the people in person ordain and establish all laws and regulations. This is not carried out to the letter, even in the most democratic cantons, for in all of them there are, beside the

Landesgemeinden, representative councils which have some degree of legislative initiative, but the amount of discretion is practically so small that in a general consideration it can be ignored. The people cannot personally administer the laws, hence employ for the purpose a corps of more or less permanent officials; but they can enact their statutes by only an occasional departure from the ordinary business of life. This is done in Switzerland by stated meetings, ordinarily one a year, though extra sessions may be called in emergencies. The day set is a Sunday in April or May, and the place some spot in the open air, long consecrated by convenience and usage to the assembling of the people.[1]

In theory the *Landesgemeinde* consists of all male citizens who have reached their majority; in practice it is composed of all who are able to be present. It differs from an ordinary mass-meeting in the respect that the voter not only expresses his political opinions, but instantly gives effect to them. The majority does not simply wish, or demand the passage of a measure, but enacts it at once, and the vote is a solemn legal proceeding. Hence the interest with which the foreign observer, who is accustomed to representative methods, beholds this act of sovereignty on the part of an assembly which includes all classes of people, poor and rich, the educated and the ignorant together.

The functions of the folk-mote are well stated in the constitution of Uri[2]: "Whatever the *Landesgemeinde* within the limits of its competence ordains, is law of the land and as such shall be obeyed"; but this does not mean unlimited license to majorities. "The guiding principle of the *Landesgemeinde* shall be justice and the welfare of the fatherland, not wilfulness nor the power of the strongest."[3]

---

[1] In Uri, Boetzlingen an der Gand, near Altorf; in Glarus, the village of Glarus; in Obwalden, Sarnen; in Nidwalden, Wyl an der Aa, near Stans; in Appenzell Exterior, alternately at Trogen and Hundwyl; in Appenzell Interior, the village of Appenzell.

[2] Art. 51.

[3] Art. 50.

In detail the powers and duties of this body vary somewhat in different states, but usually cover the following subjects: partial as well as total revision of the constitution; enactment of all laws; imposition of direct taxes, incurrence of state debts, and alienation of public domains; the granting of public privileges; assumption of foreigners into state citizenship; establishment of new offices and the regulation of salaries; election of state executive and judicial officers.[1] In no case does the *Landesgemeinde* act as court of justice. This will be noted as a wide variation from the folk-mote of Tacitus, which was accustomed to condemn criminals and cowards by popular vote.[2] The modern *concilium* leaves all such matters to the calmer consideration of the judiciary or executive. In brief the *Landesgemeinde* is the source of all general law and highest supervisor of administration.

The method of procedure while in session is adapted to the necessities of a mass-meeting, and differs considerably from an ordinary legislative body. The presiding officer is the chief executive of the canton, the *Landammann*. Supported by the State Secretary, the Constable and other officials, the President mounts a temporary tribune in the open air and finds before him the whole population of his dominion, men, women and children, in holiday attire. Not all of these are voters, but none are forbidden to come, though women and bystanders are expected to stand about the borders while their brothers legislate in the centre.[3]

Formerly it was the custom for every voter to wear a sword, but now this is expected only of the presiding officials. Here and there may be seen perhaps a rusty family relic, more often carried under the arm, or strapped to an umbrella, than hanging at the side. Black clothing is apparently

[1] Typical enumerations of powers are to be found in the constitutions of Uri, Art. 52, and Glarus, Art. 39.

[2] Germania, Cap. 12.

[3] In Glarus, seats are provided directly in front of the tribune for the children, who are thus brought early to understand their political duties.

the only uniform required, if general usage may be called a requirement. The people are so well known to each other that it would be difficult for any one to act as a voter without detection.[1]

Some of the *Landesgemeinden* have retained more of their ancient customs than others. In Nidwalden, for instance, the *Weibel*, whom we may call state constable, or high sergeant, or herald, is a most important personage. He is dressed in elaborate costume, and acts the part of grand master of ceremonies. At the opening of the assembly the *Landammann* demands of the people whether they wish to respond to the invitation of his government and to hold their *Landesgemeinde*. After a pause the *Weibel* gravely replies, "Most honorable *Landammann*, we desire to hold the *Landesgemeinde* according to ancient custom."

"Then let us begin by asking the blessing of God."

An act of worship, after different forms, is the beginning of proceedings in all of the popular assemblies, after which it is customary to listen to an address from the President.[2] This may be long or short, according to the amount of business on hand. The legislation which is to come up for adoption has already been put into shape for presentation, either by the executive council of the state or by that body which takes the place of a house of representatives.[3] It was formerly allowable in some cantons for any person to present a bill at the meeting, but now it is necessary in all of the states to submit such proposals first to the authorities.[4] Here they are examined and reported upon to the *Landesgemeinde*, with comments.

[1] There is occasionally complaint from some of the *Landesgemeinden* that the young men who are not yet voters, forget that fact in the excitement of the occasion, and add their hands and voices to elections when not entitled to the privilege.

[2] The order is not exactly the same in all cantons.

[3] Here the resemblance to the *concilium* of Tacitus is real.

[4] In Uri, before the last revision of the constitution, it was necessary for a bill to be requested by at least seven men of as many different families.

In Glarus this programme is called the *Landesgemeinde Memorial*, and must be published at least four weeks before the assembly meets.[1] To give opportunity for individuals and authorities to make proposals and offer bills, the official gazette announces every January that for fourteen days after a given date petitions may be presented for that purpose. These must be written, the object plainly stated, and accompanied by the reasons. All such motions are considered by what is called the Triple Council, or legislature, and are classified as "expedient" and "inexpedient." A proposal receiving more than ten votes must be placed on the list of expedient, accompanied by the opinion of the council. The rejected are placed under a special rubric, familiarly called by the people the *Beiwagen*. The assembly may reverse the action of the council if it chooses and take a measure out of the "extra-coach," but consideration of it is in that case deferred until the next year.

In the larger assemblies debate is excluded, the vote being simply on rejection or adoption. In the smaller states the line is not so tightly drawn, the constitution of Uri providing that signers of petitions may orally explain their motions in person or by deputy. Votes are taken by show of hands, though secret ballot may be had if demanded, elections of officers following the same rule in this matter as legislation. Nominations for office, however, need not be sent in by petition, but may be offered by any one on the spot.

The proceedings are, on the whole, carried out with great dignity, although considerable good-humored amusement is often occasioned by the election of minor officers. The crowds are never turbulent, even where debate becomes at times exciting.

When we examine into the conditions under which folk-mote government is carried on in Switzerland, we find, in the first place, that it is the smaller rather than the larger states which employ that form. A list of the six cantons which are

[1] In some other cantons as few as ten days may intervene.

least in population corresponds very nearly to the six democracies, and, in geographical dimensions, almost the same proportions are exhibited.[1] All of them are situated in the mountainous interior of the country, where life is essentially pastoral, where large cities have never grown up and are never likely to be found in the future. The means of existence remained much the same for centuries, and even in these later days the primitive occupations of the fathers have felt less severely than in other places the pressure of change. The wants of the people do not require as elaborate machinery for government as that demanded by larger industrial communities.

The *Landesgemeinde* is also possible, because the states are not only small in relation to other members of the confederation, but are actually diminutive in area. The longest dimension of any one of them does not exceed thirty miles, hence the distance from home to the chief town would not, for any large number, be more than ten or fifteen miles. For the greater part of the population, the travel involved in attending the assembly is much less than that. Uri is long and narrow, requiring the greatest amount of travel from its outskirts to its capital, but Interior Appenzell is a circle about ten miles in diameter, in which the seat of government is nearly central, hence it is not a very difficult matter, in any case, to secure the attendance of a large proportion of the voters.

The size of the assemblies is also in their favor. It would not be possible to conduct successfully a folk-mote which contained as many voters as the state of Massachusetts, though that commonwealth has had abundant experience in town-meetings. It is astonishing to see how well the larger assemblies of Switzerland are managed, when one considers that it is not an ordinary political mass-meeting, but a legal

[1] Population in 1888: Nidwalden, 12,538; Appenzell Interior, 12,888; Obwalden, 15,041; Uri, 17,249; Glarus, 33,825; Appenzell Exterior, 54,109.

government, for the rural portions of those commonwealths were considered subject to the fortified centres, and it was a long time before persons living in the country or in the villages could claim equality in citizenship. To-day the distinctions are abolished, but traces of the old framework still remain.

The members of legislatures are elected by districts by direct popular vote, in varying proportions to population. It is not intended, however, that delegates shall be simply ambassadors of their districts, for they must not take binding instructions from their constituents, but consider themselves representatives of the whole state. Freedom of opinion, consequently, and liberty of judgment to legislators are fully provided for.

The varying proportions of delegates to population offer interesting studies in representation. In all the states the ratios are large, as compared with countries of greater area; yet it is a curious fact that in most of the cantons which are governed by the *Landesgemeinde* the legislatures are larger, in proportion to number of inhabitants, than the assemblies of less democratic governments. In Uri there is one delegate for every four hundred inhabitants, in Nidwalden and Interior Appenzell one to two hundred and fifty, in Obwalden as many as one to one hundred and eighty-seven. It would seem as if the people were not content to go up once a year and make laws in person, but must also send a good-sized minority of the citizens to the legislature to keep the machinery of state moving during the interval. This procedure is doubtless due to the fact that at best the states are small, and even with the large ratio the legislatures do not become large assemblies. In Obwalden the number of members is about eighty, and in other democracies between fifty and sixty. The small number of inhabitants permits a large representation, without causing the legislatures to actually become as numerous as in the more populous cantons.

The following tables will show the condition of representa-

tion in the legislature of each canton, the figures standing for the number of inhabitants to each delegate:

Zürich,	1200	Schaffhausen,	500
Bern,	2000	Appenzell, Exterior,	2000
Luzern,	1000	Appenzell, Interior,	250
Uri,	400	St. Gallen,	1200
Schwyz,	600	Graubünden,	1300
Obwalden,	187	Aargau,	1100
Nidwalden,	250	Thurgau, 250 voters,	
Glarus,	333	circa,	1000
Zug,	250	Ticino.[1]	
Freiburg,	1200	Vaud,	1000
Solothurn,	800	Valais,	1000
Basel-City,	567	Neuchatel,	1000
Basel-Land,	800	Geneva,	666

We are apt to think that we, in the United States, are living under a highly representative, if we do not call it a democratic system of government; but when we examine into the amount for which one citizen stands in making the laws which govern him, we seem to be a long way from the ideal. In the American legislatures the number of members of the lower house does not exceed one to 1100[2] inhabitants, in one-third of the states it is one to more than 15,000,[3] and in one case falls to one in 39,000.[4]

The qualifications for election to the Swiss legislatures are usually the same as those governing the right to vote, namely, the completion of the twentieth year and full possession of civil rights. In a few cantons the age of twenty-five years must be first attained before entering the state assembly. The terms of office vary in the different cantons from one year to

[1] In process of revision.

[2] New Hampshire, 1134.

[3] Iowa and Michigan, 16,000; Illinois, 20,000; Pennsylvania, 21,000; Ohio, 29,000, etc.

[4] New York, 39,000 or more.

six, but are usually fixed at three or four, with no hindrance to re-election. Deputies receive ordinarily a small payment out of the state treasury[1] for their services, in some states three francs for each day of attendance, in others as high as six. It cannot be said that the pecuniary inducements of political life are great. The number of sessions held annually varies all the way from one to six, but in a majority of states the legislature meets but twice a year. Frequency does not seem to be regulated by form of government, for the rural state of Obwalden and the city of Basel are alike in having six sessions a year, and Appenzell Interior and Luzern both agree to have three.

Legislatures, within constitutional limits, are masters of their own time and establish their own methods of organization. They are judges of the qualification of their members, adjourn from time to time upon their own motion, and cannot be dissolved by any other department of government. We observe in this latter fact that the state assemblies, notwithstanding some confusion of functions, are not parliaments after the plan of the legislature of England, for they meet at stated intervals independently of any call or dismissal by the cabinet; the period of service not being indefinite, but distinctly terminable, and the life of the legislature measured by the constitution, not by the exigencies of politics. An apparent exception to this fixity of tenure is the provision found in a few cantons for dismissing a legislature by popular vote. If a certain number of voters[2] petition for it, the question must be submitted to the people whether or not the assembly shall be recalled and a new one elected, and in case the recall is affirmed the functions of the legislature cease. This, however, is "an appeal to the country" from the country itself, not an executive dissolution.

[1] In Zug, a member of the legislature is paid by the community which sends him. Zug, Const., Art. 46.

[2] Bern, 8000; Basel-land, 1500; Solothurn, 4000; Aargau, 5000; Schaffhausen, 1000; Thurgau, 5000.

The functions of the Grand Council partake of the nature of all three departments of government, legislative, administrative, and judicial. In the democratic cantons the legislation will naturally be of minor importance, because the *Landesgemeinde* undertakes the more weighty matters, and supervision of the executive will be a large part of the work. The constitution of Uri calls the *Landrath* "the representative law-making and highest administrative body,"[1] and the list of duties prescribed will serve as an example of that class of states. This house of representatives has for its objects: the preparation of the order of business for the *Landesgemeinde* and the subsequent approval of the minutes of that meeting; the previous discussion of laws and petitions before they are submitted to the popular assembly; the interpretation of the acts of the *Landesgemeinde* in case there is doubt as to their meaning; to speak as the voice of the canton on questions submitted to the federal *Referendum;* the issue of ordinances necessary to execute the federal and state laws; ordinances regulating civil and criminal procedure, and regulations for the organization of the administrative and judicial departments; conclusion of treaties and agreements; supervision of the whole cantonal administration; especially, auditing of accounts and budget estimates; decision of conflicts between the executive and the judiciary; examination of petitions and applications for pardon; regulation of salaries and payment of officials elected by the legislature itself; regulation of fees to be paid to the state; election of a large number of subordinate officials in the various departments, chiefly on recommendation of the state executive council (*Regierungsrath*).

This catalogue of duties will also describe in general terms the functions of the legislature in the states employing the Obligatory Referendum. The Grand Council is in reality a supervisory committee, taking a hand in all the various

[1] Art. 54.

operations of government, preparing matters for the larger assembly below it, and keeping an eye on the smaller committee above it. In the cantons where Optional Referendum is in vogue, the legislature will have the power to spend money below a specified limit; to enact laws of specified kinds, usually not of general application; and to elect more important officials, the amount of discretion rising gradually till the complete representative government is reached.

In Luzern, where the *Referendum* is optional, the legislature has discretionary power to expend money to the amount of 200,000 francs, or not to exceed 20,000 francs for a series of years; all sums above that point are liable to be called up for popular vote. In Schaffhausen the limit is 150,000 francs, and in Zug, a still smaller canton, it is but 40,000. In the states having obligatory *Referendum* there is usually also a limit within which the Grand Council may spend money without further ratification, even when all general laws must be submitted to vote. In Vaud the popular approval must be obtained for a loan exceeding one million francs; in Valais the *Referendum* is obligatory for financial matters only, and for an expenditure of 60,000 francs. Thus an endless variety exists in the prerogative of state legislatures, making it impossible to present an exact average statement of their functions. Sufficient has been said, however, to show that the Grand Council is, on the whole, a body which prepares and examines legislation for the people, rather than an authority to legislate in place of the people. In almost every state the people have retained the final decision on matters of great importance.

The one republic, Freiburg, resembles in general outline the American state more than it does the neighboring cantons. After enumerating the duties of the legislature in a manner similar to that given earlier in this chapter, the constitution of Freiburg states finally, "it exercises all parts of the right of sovereignty which are not expressly given to some other authority by the state constitution." Executive and judicial

powers are ascribed to separate bodies in the state, but both of these are elected by the legislature. The Council of State, or cabinet, is the creation of the Grand Council, and holds office for an equal length of time.[1] The judges of the *Kantonsgericht*, or state supreme court, are likewise dependent on the legislature and responsible to it for the administration of justice. Hence, although not acting through the same persons in all departments of government, the Grand Council is in fact the controlling power in all spheres of sovereignty. There is no appeal to popular vote except on the adoption or revision of the constitution.

In all the states there is more or less participation in the preparation and application of law, by the executive and judicial departments. The consideration of the popular vote is deferred to later chapters.

---

[1] Five years.

CHAPTER XIII.

Referendum and Initiative.

To the general outline of these institutions already given, a few remarks on their origin may be added, with certain details which show by what means they are put in operation. A popular vote under the name *Referendum* was known in the valleys of Graubünden and Wallis as early as the 16th century. Here existed small federations of communities who regulated certain matters of general concern by means of assemblies of delegates from each village. These conventions were not allowed to decide upon any important measure finally, but must refer the matter to the various constituencies. If a majority of these approved, the act might be passed at the next assembly. This primitive system lasted till the French invasion of 1798, and was again established in Graubünden in 1815. The word *Referendum* was also used by the old federal diets, in which there were likewise no comprehensive powers of legislation. If not already instructed the delegates must vote *ad referendum* and carry all questions to the home government.

The institution as now known is a product of this century. It originated in the canton of St. Gallen in 1830, where at the time the constitution was undergoing revision. As a compromise between the party which strove for pure democracy and that desiring representative government, it was provided that all laws should be submitted to popular vote if a respectable number of voters so demanded. Known at first by the name Veto, this system slowly found its way into several of the German-speaking cantons, so that soon after the adoption of the federal constitution five were em-

ploying the optional *Referendum*. Other forms of popular legislation were destined to find wider acceptance, but at present in eight states, including three of the Romance tongue, laws must be submitted on request.[1] The statutes thus subject to inspection, as stated before, are usually enactments of general application. In some cases those requiring urgency are excepted, in others, no exception is made and any law may be called up.

The usual limit of time during which the petition must be signed is thirty days. These requests are directed to the Executive Council of the state, and that body is obliged, within a similar period after receiving the same, to appoint a day for the vote. The number of signers required varies from 500 in the little canton Zug to 6000 in St. Gallen, or from one-tenth to one-fifth of all the voters. Some states provide that in connection with the vote on the bill as a whole, an expression may be taken on separate points. Custom varies as to the number of votes required to veto a law. Some fix the minimum at a majority of those taking part in the election, and others at a majority of all citizens, whether voting or not. In case the vote is against the bill, the matter is referred by the Executive Council to the legislature. This body, after examining into the correctness of the returns, passes a resolution declaring its own act to be void.

By means of the Initiative or Imperative Petition, the order of legislation just described is reversed, since the impulse to make law is received from below instead of above.[2] The method of procedure is about as follows: Those who are interested in the passage of a new law prepare either a full draft of such a bill or a petition containing the points desired to be covered, with the reasons for its

[1] Basel City, Schaffhausen, St. Gallen, Luzern, Zug, Neuchatel, Geneva, Ticino.

[2] Objection may perhaps be made to this application of the terms "above" and "below" in contrasting legislature and people. In some American States the order might well be reversed.

enactment, and then bring the matter before the public for the purpose of obtaining signatures. Endorsement may be given either by actually signing the petition or by verbal assent to it. The latter form of consent is indicated either in the town meetings of the communes, or by appearing before the official in charge of the petition and openly asking that his vote be given for it. If, in the various town meetings of the canton taken together, a stated number of affirmative votes are given for the petition, the effect is the same as if the names of voters had been signed. When the signature method is adopted, all those who desire to endorse the petition are required to go to the office of the person in charge of the bill. This is always a public officer, either the head man of the town or some precinct official specially designated. Here signers must prove their right to vote as in any other election. No fees are to be drawn from voters for witnessing their signatures. The number of names required is about the same in proportion to the whole body of voters as for the Optional Referendum.

The requisite number of signatures having been procured, the petition is carried to the legislature of the canton. This body must take the matter into consideration within a specified time (Solothurn, two months), and prepare a completed draft in accordance with the request. It may also at the same time present an alternate proposition which expresses its own ideas of the matter, so that voters may take their choice. In any case the legislature gives an opinion on the project, as to its desirability or propriety, and the public has thus a report of its own select committee for guidance. The bill is then submitted to the voters, and on receiving the assent of a majority, and having been promulgated by the executive authority, becomes a law of the land.

From what has been stated above, it will be observed that the relation of the people to the regulations under which they live is well expressed in a clause of the constitution of Zürich,[1]

[1] Art. 28.

"The people exercise the law-making power with the assistance of the state legislature." Whether appearing in person or by deputy, the individual voter is the ultimate source of legislation. He may leave certain matters to the discretion of representatives, but retains a control over their action not usually found. In the United States it is regarded as a principle of common law that a power once delegated cannot be re-delegated, and that a legislature cannot shift its responsibility back upon the people by referring a subject to popular vote, a vote thus taken being simply an expression of opinion for information, not a legislative act.

In Switzerland, however, the Imperative Petition approaches very closely to an act of legislation. The signatures are not haphazard collections of names, but are taken after official inspection of the qualifications of the signers. Attention to the preliminary request is obligatory, and the final popular vote leaves no discretion to the legislature; it must simply carry the will of the people into effect. This is a nearer approach to theoretical democracy than has been exhibited by any other government of like extent, for the American states adopt only their constitutions by such plebiscites. Rousseau's ideal of democratic government was the people assembled in person at the central point of the state, making and unmaking its own laws; but he feared that his native country was too rough and the climate too rigorous to see that fully carried out. Yet, by the operation of the petition and the veto, Rousseau's dream is more than fulfilled, since every citizen may participate in making laws of the gravest import, without leaving his own precinct.

Laws being thus easily changed, the distinctions between fundamental and statute law are often lost sight of in forming the constitutions[1]—a mistake not confined to Switzerland. Since it is, however, a fixed principle of the federal constitution that the constitutions of the cantons shall be open to

[1] Many of these documents are very long and detailed.

revision at any time, the results are not the same as in the United States, where a long limit of time is sometimes fixed before a new constitution can be adopted, and fundamental legislation becomes outgrown and unnecessarily difficult to set aside.

Revision of the constitution is accomplished by the same instrumentalities as are used to change other laws. Amendments may come as suggestions from the legislature, or where Initiative obtains, at the instance of popular agitation. In cases where total revision is wanted, the legislature of its own accord, or on petition of a given number of voters, submits first the question whether the constitution shall be revised or not, and, if revision be affirmed, whether it shall be done by the legislature itself or by a constitutional convention. If it is placed in the hands of the legislature, a new assembly is usually elected, in order to get the freshest representation of the people, and if a constitutional convention is preferred, this body is chosen on the same basis. The work of either constituent body must be accepted by a majority of voters before taking effect.

The Referendum in America.

It is a matter well worth consideration whether or not some form of *Referendum* is applicable to the process of legislation in the United States. One of the most obvious facts in the history of American state constitutions is the change of opinion which has taken place in the people respecting the relative importance of the various branches of power into which their governments were divided. At first the legislature was all-powerful; not only enacting the laws, but generally also electing the governor and the high officials of the judiciary. As Madison said in the convention of 1787, there was "a tendency in our governments to throw all power into the legislative vortex. The executives of the states are little more than ciphers; the legislatures are

omnipotent." This fear of an overbearing executive, engendered by colonial experience, was carried over into many of the newer states as they were admitted, and, notwithstanding the warnings of the revolutionary statesmen, the concentration of powers in one branch of government for a time continued. This resulted not only in the expected preponderance of the representatives of the people, but also in an unexpected multiplication of laws, with coincident loss of control over the lawmakers. To check the progress of ill-timed or bad legislation, the states began to give to the governor the power of veto, which was already at hand in the federal constitution, and to prevent the great surplus of legislation, limits began to be set to the time in which the assemblies should wield their delegated powers, and the periods of recurrence fixed at such distances apart as should reduce the possibility of making laws to a minimum. The executive is now on the way to complete possession of the veto power, and the legislature, notwithstanding the large number of honest men in it, has become the contempt, if not the biennial terror of its own constituents. In fact, in order to reduce the possibilities of law-making to a supposed point of safety, the people have taken to enacting a large part of their statutes themselves in their constitutions, and, as a result, those instruments present a curious mixture of fundamental and administrative provisions, all demanding the stability and reverence due to organic law, much to the neglect of logic and of proper political growth. In other words, the people have taken back into their own hands, but after a clumsy fashion, many of the powers once given to their representatives.

When we consider the tendencies of constitution-making in this country and the principles which underlie these attempts at improvement, it would seem as though valuable hints might be found in the experiences of the Swiss. The American states are undoubtedly taking more power out of the hands of their legislatures, first by enacting a large part of

general legislation themselves when adopting the constitutions, and second, by providing the governor with the power to delay and perhaps defeat the passage of laws by the veto. But what is the veto? Theoretically, the governor is an executor of law, not a lawmaker; hence this veto is a legislative function thrust upon his office as an artificial appendage. He is supposed to utter the protest of the people, whose creature he is, against the action of their other representatives. But if we are thus obliged to have two mouthpieces for the body-politic, neither of which always expresses the mind of the public, why not let the people speak for themselves?

This would not be a brand-new institution to be grafted upon existing systems, for we are already familiar with the popular vote on fundamental law, and strictly local matters are continually being settled by the voice of towns and counties, but a large body of legislation intermediate between these classes is submitted either not at all or only at those distant intervals when the mongrel codes called constitutions are adopted. If statutes of general application were regularly submitted to popular vote, the constitution could be restricted to proper organic law, which would insure for it that greater stability and respect, which are now so often damaged by the frequent revisions needed to correct the special legislation involved. Laws which are contrary to public sentiment, but which under the present system must be endured till another, or perhaps many assemblies have been elected, could be set aside before taking effect, while measures to which obedience is assured by vote of the majority would be given greater stability and protection from meddling, by the seal of popular approval. It may be urged that this exhibits a lack of faith in representatives, who must thus work without the ambition of trusted agents, but the fear and distrust of legislatures could not well go further than it now exists, even if you restrict it to fear of honest blundering, and the fear of constituents is the chronic misery of legislators. The popular

vote would give to the people a certain confidence in its own power, and to the representative a means of solving definitely the puzzle upon which he now ventures so many guesses.

For a country which calls itself democratic, the people of the United States have less to say about their own affairs than they are apt to imagine. As stated once before, the largest proportion of representatives to inhabitants in any state in the Union is one to 1100, while in one-third of them the ratio is less than one to 15,000, and in one case there is but one representative for 39,000 souls. So long as this continues, the popular voice cannot be said to have superabundant means of expression. Switzerland, with all its refinements of village democracy, is, on the average, represented in its legislatures by a delegate for every 944 inhabitants. Our legislatures are large enough, but the means of voicing public sentiment inadequate, especially when we consider that within these assemblies, the time, place, form and substance of legislation are practically determined by a few men in committee, and within these wheels much local law-making is enacted by the member from the district in question, with the consent of the majority.

It would be rash to say that we ought to adopt the Swiss methods without modification, or that they would be applicable to all parts in the present state of the Union, but they are worthy of careful consideration. Their use of the Petition is particularly instructive and capable of wide application. It has been repeatedly proved that in this country one can get a petition signed by any number of people on any subject whatever, and amusing instances are recorded where absurd requests have been numerously signed by persons who knew nothing whatever as to what they had subscribed. Perhaps such documents deserve the oblivion they meet in legislative halls. Some do, while others, which really express the earnest desires of good citizens, must suffer on account of the cheapness of the rest. If state law, however, required that when a petition, signed by a sufficient number of qualified

voters, whose signatures had been attested by a notary or clerk of court, is placed before the legislature, it *must* be considered and a bill submitted to popular vote within a given limit, at least two good effects would appear. First, the petitioners, if required to take the trouble to go to one spot in their precincts to subscribe, would be more certain to know what they were about, and knowing, also, the sure and definite effect of their act, would be more cautious in giving the weight of their names. Second, the time limit, reinforced, if not rendered unnecessary by the new importance which would belong to petitions thus made by the deliberate action of voters, would furnish a remedy for legislative shirking and for suppression of bills in committee. The responsibility could not be tossed about from one side to the other.

Such petitions should reach a legislature through some standing office of the state, either the Secretary of State, or some bureau established by the Assembly for the purpose, and not depend on the whims, or even the good wishes, of any member for the time of their presentation. Requests could then appear without that aroma of party which excites opposition to the best of bills, and at least part of the lobbying now deemed necessary to the introduction of all measures would be rendered unnecessary. Without including any further obligation, it might add to the effect of petitions to Congress to insist on having the signatures attested.

As to the results of these institutions, it may be said, in general, that the people of Switzerland have shown themselves worthy of the confidence they have placed in themselves. Mistakes have been made, but often these mistakes have been remedied by the same methods later on, while all the advancement in constitutional law, from the chaos before 1848 down to the present strong federal government, has been made with the consent of the popular voice. Doubtless mistakes would be made in this country, but the risk could not be greater than at present, and, with all the experience already passed through in the making of constitutions and

the practice of local government, it would seem as if this additional power could be used, not only with safety, but with good effect. There would still be enough left for legislatures to do in the minor matters of regular recurrence. The previous discussion of general laws would still need their direction, but, when the people have taken to themselves the final decision on matters of importance, they will have removed many opportunities for speculation, and obtained for the state more of the reality, in place of the appearance of democracy.

CHAPTER XIV.

State Executive and Judiciary.

The chief executive power of the cantons of Switzerland is uniformly intrusted to a committee of officials, known by various titles, but, in a majority of cases, called the Council of State.[1] In a little more than half of the states this body is elected by popular vote; in the democratic cantons, of course, by show of hands; in the others, usually on a single ticket.[2] Where these methods do not obtain, the Council is chosen by the legislature. The number of members varies from five to thirteen, not necessarily according to the size of the canton, but according to the political tastes of the different sections. The term of office is in some states one year, in others five; the usual limit, however, being three or four.

The functions of the Council of State are, primarily, the administration of the laws as enacted by the people or by the representative legislature, but there are also duties which are something more than executive. The Council is expected to guard well the interests of the state in its relations with other cantons and foreign powers, to preserve order and public safety within, to watch over the moral and material welfare of citizens, and, in general, to carry out the decrees of the legislature or people. This negative, ministerial character, however, is not all. The Council also takes initiative in the political and legislative activity of the state. It lays

---

[1] Designations used are: *Regierungsrath, Conseil d'État, Consiglio di Stato, Standeskommission, Kleiner Rath, Landammann und Rath.*

[2] In Baselland, however, members of the cabinet are elected by districts, in the same way that delegates to the Federal House of Representatives are chosen.

before the lawmaking body the financial necessities of each year and reports on the annual receipts and expenditures, as do executive boards under all forms of government; but in Switzerland the Executive Council may also propose laws other than fiscal, and with an effect, not merely suggestive, but active. The Council of State is supposed to be on the lookout continually for new political developments, and to project new measures to suit the necessities of the times. Although the right to propose laws belongs to any member of the legislature, or, perhaps, to any citizen, this is, above all, the privilege of the executive cabinet, which has charge of the administration of existing statutes. Hence we find that members of the Councils of State may attend the sittings of the legislatures and may address those bodies on questions coming before them, though generally without the right to vote,[1] or to be at the same time members of the legislative branch.

The Executive Council is called upon, under certain circumstances, not only to suggest, but also to interpret and apply laws already enacted; in other words, the cabinet becomes at times a judicial body, to which cases are carried for decision. For instance, the *Regierungsrath* in Aargau has a general supervision of town administration, and becomes a court of appeal when questions of community taxation and finance are brought into dispute.[2] The constitution of Solothurn makes it a duty of the cabinet to decide, so far as they may come within its competence, all appeals, petitions and complaints; with the added injunction that in all decisions on appeals the reasons for judgment must be given.[3] The questions which are thus left to the chief executive council are, in any of the states, chiefly of an administrative character, yet they give a certain complexity to this branch of government, which is particularly notice-

[1] "Mit berathender Stimme."
[2] Aargau, Staatsverfassung, Art. 39, 1.
[3] Art. 38, §4.

able in the institutions of Switzerland, and which will give reason for a brief discussion of the mixture of powers later on.

In some of the cantons a discretionary power to expend money within fixed limits is left to the Executive Council, without regard to the legislature. The appointment of certain minor officials is also usually a cabinet duty, sometimes specifically named, sometimes under a constitutional clause which makes the Council the residuary legatee of all appointing powers not granted to any other branch of government. Along with the administration of state affairs, there is, finally, a general supervision of districts and communities. The canton executive does not confine its care to large cantonal matters alone, but concerns itself with local administration as well. This duty, however, is undertaken merely by way of supervision, not by dictation or interference, as we shall observe when we come to study community life more in detail.

For the better management of business the work of the Council is usually divided into departments, as in the federal cabinet, with one councillor at the head of each division; but, also as in the case of the national executive, the state cabinet acts as a unit, not by the divided authority of its members. Nor does any one man hold the executive power of a state in his single hand. Administration is vested in a committee; for this committee a chairman is always chosen, but he is not the chief executive to whom all the others are responsible. His title in the German cantons is frequently *Landammann;* in Luzern, *Schultheiss;* in the French and in many of the German states he is called President, but in all these cases the full designation is "President of the Council of State," not "President of Geneva," etc., as one might be led to think from American analogies.

The *Landammann*, or President, is selected either by the state legislature or by the Council itself, the term of office usually being limited to one year at a time. A Vice-President or *Statthalter* is elected at the same time, and the provi-

sion frequently made that the outgoing President cannot be made Vice-President during the following year, nor shall the same person be Vice-President for two years in succession. During his term the President is the highest representative of the state; he speaks in the name of the state, but in power does not quite reach the position of the Governor in the United States. The latter is an independent branch of government, for, although he does not appoint the other chief officers of state and these may not be under his direction, he is not bound by the decrees of a cabinet. The governor has a veto power over legislation, which in Switzerland is found neither in any single officer, nor even in any executive board.

The point of contact between the executive and legislative branches of government is quite opposite to that usually found in the states of the American republic. Instead of being the mute servant of the lawmaking power until bills have been enacted and are about to be put into operation, the cabinet proposes new measures in advance. This is also the privilege of our governor, but his suggestions have little more weight than those of an influential newspaper, while the Swiss executive councils may go upon the floor of the legislature and explain and defend their proposals while in the process of enactment. Standing at the head of affairs, the cabinet observes the workings of existing machinery, and can suggest improvements with better understanding than is possible to persons at a greater distance. This guiding force is recognized and accepted, and party ideas, instead of floundering about under uncertain leadership, find expression through spokesmen who are both appointed by popular will and are conspicuously responsible. Yet, like the Federal Council, the executive boards in the states are not party cabinets in the ordinary parliamentary sense; they do not retire from office upon the rejection of their measures. The Council is chosen for a definite term of years, and at the end of that time the question comes up as to whether that par-

ticular body of men have fitly represented the party or policy then dominant.

For the better administration of internal affairs nearly all the cantons are divided into districts,[1] over which are placed officials who represent the state government and are variously known as Prefects, *Bezirksammänner*, *Oberamtmänner*, *Amtsstatthalter*, or *Bezirksstatthalter*. In the greater number of cases these officials are elected by popular vote, although in a few instances they are appointed by legislature, or even by the Council of State. Whatever the mode of appointment, the district officer is the agent of the central government in the territory over which he is placed. In a small way he is the governor of a group of towns, carrying out the laws enacted by the legislature and enforcing the ordinances of the Executive Council. In some cases the prefect is assisted by a district council, which discusses the affairs of their province, much in the same way that county commissioners govern in the United States. This *Bezirksrath* is, however, advisory to the *Bezirksammann*, rather than a body to which he looks for commands, for he is responsible chiefly to the state government. The supervision of the district council extends, in some cases, to the subject of wardship and care of orphans, matters which in America are more properly referred to a distinct probate court.

The term of office for district governors corresponds in length to that of other canton officials, varying from one to five years, with re-eligibility. To illustrate the duties more particularly we may quote the instructions found in the constitution of Aargau.[2]

"The following duties are laid upon the *Bezirksamt:*

---

[1] In the German states called *Bezirk*, *Kreis*, or *Amt;* in the Romance cantons, *district*, *cercle*, *circolo*. In several states of small territory the District is dispensed with, the state government dealing directly with the community. This is the case in Zug, Baselstadt, Schaffhausen, Appenzell Exterior, and Geneva.

[2] Art. 43.

a. It attends to the execution of the laws, the ordinances and orders of the Council of State, the execution of judgments of court, as well as all other duties laid upon it by law in civil matters.

b. It attends to the preservation of public order and safety.

c. It attends to all duties laid upon it in connection with the criminal law.

d. It is highest guardianship court of the district, and has supervisory authority over the administration of communities and their domains.

e. It has supervision over officials subordinate to it."

These subordinate officers include, beside minor functionaries connected with the district itself, the head men of villages. The state administration does not appoint separate officers to carry out general laws to the smallest detail, but makes use of the machinery of government already existing for other uses. The mayors of towns are, for the most part, local officials, but when mandates of the state are to be carried out in their locality, they act as agents of the central administration. For instance, we may imagine the announcement of a general election to start from the council table of the *Regierungsrath*, to proceed from there to the *Bezirksammann*, thence to the *Gemeinde President*, or mayor, who causes it to be proclaimed or posted for the information of all citizens of his community. Reports on administration would follow this course in reverse order.

In Schwyz the government of the district assumes almost the form of a democratic state. It will be remembered that in this canton before 1798 the *Landesgemeinde* was the source of all authority, but was afterward given up. That institution, however, seems to have descended to the district, and now there are six folk-motes instead of one. "Every *Bezirk* has a *Bezirksgemeinde*," consisting of all male citizens who have reached their majority. The constitution of this meeting resembles closely those found in the larger states. "The *Bezirksgemeinde* assembles ordinarily once a year on the first

Sunday in May; extraordinarily, whenever called together by the district council, or whenever one-fifth of the voters demand." It is the duty of this assembly to elect a share of the judges of the cantonal court, and a complete set of district officials, namely, the *Bezirksammann* and his deputy, the district treasurer, members of the district council, judges and alternates for the district court, a district secretary and a constable. The *Bezirksgemeinde* is, in a small way, a district legislature, for it levies taxes, approves expenditures and makes binding agreements; the officers elected by it act under its authority in district matters, and under the authority of the canton in general affairs.[1]

This is an exceptional development of district government, the ordinary form not employing more machinery than that first described. There will be observed, however, all through the various systems an intimate connection between local and general authorities. Along with the utmost freedom in the election of town and district officers there exists a general administrative supervision, which keeps the smallest hamlet in contact with the state government. The cantonal authorities may not dictate to town and district councils how in detail they shall manage their respective affairs, but they can enforce the general laws which regulate local government. For instance, in some states a community may not alienate a large amount of its domains without the consent of the Council of State. It is of importance that public property be regulated according to one general system; a community might vote its domains away to a railroad, or burden them injudiciously with debt, hence local action needs cabinet approval to see that the interests of the state are not prejudiced. This might at first sight be regarded as paternalism, and the term would be justifiable did these acts occur under a monarchical form of government, but we must consider that even the Council of State is a democratic body, in the majority of states coming directly from the people; that the

[1] Constitution of Schwyz, Art. 78–90.

district authorities and all under them are likewise immediate creations of the citizens, and that this administrative inspection is only a slight interference with a local autonomy hardly to be equaled outside of Switzerland.

The Judiciary.

The administration of justice is regulated by the various states without reference to each other or to the confederation, except that regard is paid to those general principles of fair hearing which are guaranteed by the articles of union. Nevertheless a similarity exists between the systems of all the cantons, and, although the course of litigation may vary, and the tribunals bear different names, a careful provision for legal redress is characteristic of all. Each state has practically an independent judicial system of its own, for the Federal Supreme Court is not regularly a tribunal of appeal from the lower courts of the cantons. That is to say, it is not in strict organic connection with all the states in common, nor an outgrowth of the inferior judicial systems; for, although controversies between private parties are carried before the federal tribunal, they do not ascend by a graded avenue from the courts of the cantons.[1] The *Bundesgericht* deals with controversies between states, or states and individuals, and with a few selected cases between private persons or corporations; hence we may expect the beginning and the end of legal proceedings in the larger number of cases to be found within the borders of the state.

General principles observed in the organization of all the systems are that criminal matters shall be considered by separate courts from those devoted to civil controversies, and that small matters shall not be carried to the higher tribunals.[2] It is also largely true that all cases must begin at the bottom of the series of courts before going higher; hence we are interested in all the degrees of competency because of the impor-

[1] See Chapter VI., on the competence of the *Bundesgericht.*

[2] Separate Commercial Tribunals and Courts of Conflict are occasionally found.

tance of the first. The person at the foot of the judicial ladder bears the same title as his contemporary in America, but his duties resemble those of his prototype of France. This is the Justice of the Peace.[1] He is called in many of the German cantons the *Vermittler*, mediator, because his duties are to effect, if possible, a settlement between the parties before proceeding to trial. Hence the right kind of a Justice can be an exceedingly useful citizen, and by his tact and good judgment may not only promote peace and good-will in society, but acquire wide personal influence in his community. In order that there may be an opportunity for reconciliation, a number of the cantons provide that every case must first be heard by the Justice, though in others this court may be waived by consent of the parties. If he fails as an arbitrator, he sits as a magistrate, and as such, determines finally all suits involving only small amounts, and punishes small misdemeanors. The Justice's court is a widespread institution, for, except in Geneva and Baselstadt, every community or small district possesses one of these peacemakers. There are also in some places small courts of more than one member, *Untergerichten*, existing, perhaps, side by side with the Justice of the Peace. In Appenzell Exterior, for instance, this tribunal is called the *Dorfgericht*, village court, and consists of three members who meet once a month, decide all cases involving less than one hundred francs, and punish small offenses.

For civil cases of greater importance, the District, which we have just been considering from the administrative standpoint, becomes also the territorial basis for a tribunal of justice. This court is known as the *Bezirksgericht*, *Amtsgericht*, or by whatever name the district is designated, and consists of a bench of judges, from five to seven in number, elected usually by popular vote for terms of about four years.[2] Of

[1] Juge de Paix, Friedensrichter.

[2] The terms vary in the different states from one to eight years, but the greater number have three, four or six.

these judges one is made president of the court, directs the work of his colleagues, and has himself an individual jurisdiction over certain police matters and small suits which might come before a justice of the peace. Above this court stands the *Kantonsgericht* as a forum of last resort within the state. This also is a plural tribunal, the number of judges varying from seven to thirteen, and the length of term from one to eight years. Besides hearing appeals from the lower courts, the Cantonal Court exercises a certain supervision over the administration of justice throughout the whole canton, and in many states makes an annual report to the legislature on the condition of that branch of government. It is a distinction worthy of notice that the superior court is usually elected by the legislature, while the district tribunal is chosen by popular vote.

Criminal matters are not brought before the civil courts, but special tribunals are provided for each district.[1] Appeals, however, after the facts have been established in the lower court, are carried to the same cantonal court, where usually a committee or chamber of judges act as a criminal court of last resort. Juries are employed in the lower criminal courts in some of the states, but they do not bear the familiar American and English aspect; they resemble those of France. Trial before a body of your peers is customary only for crime, not for the settlement of civil disputes, and the number of men in a panel is apt to be six or nine oftener than twelve. The functions of the Grand Jury, as found in English and American practice, are performed by special "courts of instruction," or by committees of one or more judges of the higher courts acting as such. This *juge d'instruction* informs the public prosecutor, *Staatsanwalt*, of the criminal matters which should be tried, and the latter conducts the cases for the state according to regulations which vary in different cantons.

[1] Except for small misdemeanors and police offenses, which are punished by magistrates.

At first sight there seems to be a lack of that popular element which, under the jury system for all classes of trials, civil as well as criminal, seems to bring the administration of justice out of the realm of books into that of everyday life and common sense. When more closely considered, however, it becomes apparent that the courts of Switzerland are in reality strongly democratic institutions. When you begin to count you find that the lower courts contain, ordinarily, about half as many judges as there are members of an English jury; that they are elected by popular vote every few years, and thus do not get out of touch with common feeling; having, moreover, an advantage in legal training and forensic experience which the average jury may never hope to obtain. These are distinct improvements in the settlement of civil questions. Judicial offices share with others the opposition to life tenure, the people being unwilling to surrender the opportunity to recall a public servant, even though willing to keep him in service. Practice is, however, better than precept in Switzerland, for judges do not change as frequently as it might appear.

The position of the state judiciary in respect to the interpretation of the constitutionality of law is similar to that established for the Federal Tribunal. Contrary to the practice of American courts, the Swiss cantonal tribunal does not try the acts of legislature. No court can set aside a statute because of disagreement with the state constitution, because the legislature is regarded as the final authority upon its own act. The advisability of this principle was commented upon in connection with federal legislation,[1] so that no further expression of opinion is necessary, except to observe that in the state the facilities for changing law are even greater than in the confederation, it being possible to remodel the constitution on demand, and by a process occupying but a few months at most. Hence it would seem that popular rights

[1] Chapter VI.

would be better served if the interpretation of law were taken out of the hands of the assembly and left to a tribunal which is accustomed to weigh well the meaning and intent of words.

The Public Service in General.

In more than half of the state constitutions a prominent place is given to the statement that "the legislative, the executive and the judicial powers are, as such, to be kept separate." Sometimes the expression is more emphatic, but the fulfilment of the law is everywhere equally peculiar. So far as the persons who serve the state are concerned, the separation of departments is, to a large degree, consistently carried out; judges do not act as administrators, nor are legislators apt to carry out their own decrees; but we have seen how frequently the executive department, as such, takes a hand in the formulation of law, and how the legislature often elects the administrative and judicial officers, and persistently inquires into their conduct whether it elects them or not. The legislature is also in certain cases a court of law, and the Executive Council likewise a forum for administrative disputes, if for no other. No average statement can be given as to the amount of separation of powers, or as to the extent to which they assist each other in the various states. We can, however, see that these inconsistencies are, for the most part, in favor of, rather than against good government. We may demur at the mixing of legislative and judicial functions in the same body, but must admit the usefulness of the work of the administration in the formulation of law. It would have, perhaps, been better not to put so broad a statement in the constitutions, and to have stated definitely where the lines should not cross.

Another Swiss view of this question of "incompatibility" is also rather striking to the foreigner, namely, the prejudice against the admission of relatives to the same councils or boards of authority. It is somewhat amusing to find that by fundamental law no father and son or son-in-law, no

brothers or brothers-in-law, no uncle and nephew, nor even, in some cases, more distant relatives, shall be elected at the same time to the executive council of the state or to the village board of aldermen. The historical reasons for this sentiment were discussed in the chapters on Federal Government, and may be regarded here also as a survival for which there is probably at present little reason. There was a time when such prohibitions were vitally necessary.

Of the public service of the states, it may be said, in general, that it is well performed. Owing to the short intervals at which officials must submit to re-election, such a thing as a bureaucracy is almost impossible. Yet, although thus maintaining a popular control of conduct, the continuous election of faithful servants is the rule. Rotation is apt to take place in the higher administrative offices, and in the lower, long-continued service. The salaries paid are small, and members of many local boards must serve gratis, receiving their satisfaction in the esteem of their fellow-citizens. In many states, acceptance of certain offices, usually local, is obligatory. For instance, the constitution of Luzern[1] states that citizens are, as a rule, bound to accept those offices which are filled by direct popular election, the duty, however, being limited to one term of service, and exceptions made for age and disability. "Compulsory service," says the Local Government Act of Zürich, "is maintained principally for the benefit of the smaller communities, which, without this means, would find it impossible to fill their offices acceptably."[2] Responsibility for the conduct of office is provided for, in the first place, by taking oath on entering upon its duties, and, second, by liability to suit for damages. This liability is shared by the state when it accepts the action of the official as its own.

[1] Art. 13.

[2] Gesetz betreffend das Gemeindewesen, 27 Juni, 1875. Art. 214 (p. 78.)

CHAPTER XV.

State and Local Finance.

It would be difficult to make any general statement regarding the financial administration of the Swiss cantons and communities which would prove true in all cases. So manifold are the methods employed and so various are the ideas of the functions of the state, that a view of the whole subject could be gained only by giving a full description of the financial situation of each canton and village; but it must suffice here to describe a few of these, and to point out certain principles and tendencies which have more or less general applicability.

As in the United States, there is a division of the burden of taxation and of management of expenditure between the federal, the state and the local governments, but the relations of state and local finance differ from the usual American system, in that there is no territorial division having financial functions between the canton and the village. *Bezirk*, or District, has no independent powers of taxation, nor public funds, as in the case of the county in the United States. The state and its smallest units divide between themselves the responsibilities of public finance. Their spheres are by no means sharply defined. Sometimes the canton and the confederation join hands in the support of an institution or public work, as for instance the Polytechnic School at Zürich; sometimes the confederation and the community share the burden, as in the maintenance of a military parade-ground; and again

the canton assists the towns, as in the matter of public roads and pauperism.[1]

The sources of public income are equally various and complex. While the same items may appear as resources in many or all of the states, the beneficiaries may be widely different. As in the case of water privileges, or hunting and fishing licenses, sometimes the income accrues to the state and sometimes to the community. So that general inferences as to the results of a given class of taxes would be difficult to draw. Common sources of revenue, however, found in some form in almost every canton, are, 1. State property, domains or funds. 2. Royalties and monopolies. 3. Miscellaneous indirect taxes, licenses, stamp-duties, fees and fines. 4. Direct taxation of property and income.

Domains may consist of forests, cultivated lands, or city property, and are of importance both in state and local finance. The income from such resources is sometimes by way of rents, sometimes indirectly as a public utility; sometimes in communities, as an addition to the private comfort of citizens, by furnishing free fire-wood and pasture. Historically speaking, the domains are the basis of public property in Switzerland, for in the beginning the Mark, or common land, was the sum and substance of state and village economy; later on, other sources of revenue, tolls, privileges, or tributes, created surpluses which became cantonal funds. In the Middle Ages, flourishing cities, like Zürich and Bern, not only gained sufficient revenue to pay current expenses, but piled up huge treasures, and enlarged their territories by purchase, and the forfeiture of loans, but, under the regime of the Helvetic Republic and during the supremacy of Napoleon much of the ready cash was swept away and the states were obliged to begin their accumulation again. At present the combined *Staatsvermögen*, or public fortune, domains and funds together, of every canton is a consider-

[1] Orelli, Staatsrecht, 117.

able factor in its financial system. The total amount of state property in the whole confederation, omitting federal funds, is estimated to be over four hundred millions of francs. Beside this there are, especially in the northern cantons, many special funds, administered for public or charitable purposes, which in reality should be considered available resources in the general economy of the states. In Schaffhausen these amount to ten millions of francs, and in Zürich exceed twenty millions.[1]

Among monopolies, the spirit industry stands foremost in respect to the extent of its application and magnitude of financial results. This has been sufficiently described in connection with Federal Finance, but it must be kept in mind that notwithstanding the centralized system of administration it is essentially a state revenue, and in each canton a most important financial factor. Now that the expenses of assuming the monopoly and the various indemnifications have been provided for, the income from the liquor industry will probably grow larger and larger.

The sale of salt is a government monopoly in every state in the confederation, whether the production be domestic or foreign. The manufacture is in all cases undertaken by private companies, but distribution is carried out by the state. The general principle upon which this monopoly rests is, that all mining operations are *Staatsregalien*, privileges of the sovereign, and subject to royalty. In earlier days one or two states operated salt mines and wells on their own account, but these were afterwards assumed by companies, and now the actual mining is in all cases performed by private enterprise under state charters or concessions. Only three cantons, Aargau, Baselland and Vaud, have within their own territory salt-bearing wells of any account, the natural formation of other regions not being suitable. Hence the monopoly is a different matter in the various parts

[1] Volkswirthschafts-Lexikon, II. 174. See Table, Part III.

of the country; states having nó wells standing in quite another economic relation to the subject from that occupied by producing cantons.

The original cost of salt naturally makes a difference in the revenues derived from the sale, and various prices might consequently be expected to rule in different states; but the chief causes of variance are the different ideas of the duty of the state toward the salt-consuming public. In some states the matter is viewed entirely from the fiscal standpoint and as much revenue is derived from salt as the traffic will bear; in others the monopoly is regarded simply as a means of cheapening the commodity, while still other states expect moderate prices and moderate revenues. Aargau, being favored by nature with salt-formations, exacts from the manufacturers the whole supply needed for the state, *gratis*, and in addition a money payment of 45,000 francs. In other words, the company may make and sell all the salt it wishes after it has given the government enough to supply the state demand and a liberal cash bonus. Baselland receives one-tenth of the production of its wells, or, if this exceeds the amount needed for home consumption, all the salt it wants and the balance in cash. Six of the other states draw their supplies in part, in one case wholly, from foreign countries; all the rest obtain salt from the Rhine wells, so that companies of Aargau and Baselland have nearly a monopoly of the Swiss supply. This condition of the market is brought about by an understanding with foreign manufacturers, according to which the Swiss members of the ring agree not to sell in German or French territory, provided they are let alone in Switzerland. These agreements, however, are terminable at comparatively short intervals, and the nearness of foreign wells does not permit much unjustifiable increase of price.

As a financial expedient, the salt monopoly is a question of difference between cost-price to the state and selling price to the public. To all states outside the producing cantons the

price is uniformly five to six and a half francs per hundred kilogrammes, but the selling price varies from ten to twenty francs per hundred.[1] Where the monopoly is regarded as a tax the prices are higher. For instance, in Bern, one of the largest consumers, with the price fixed at 20 francs, the net profit in 1888 was 1,024,601 francs; while in Zürich, which consumed about one-half as much as Bern, the profit was only 126,000 francs, or about one-eighth as much. In Bern it amounted to a tax of 1.90 francs per inhabitant, while in Zürich, with the price at 10 francs, it was but 0.37, or about one-fifth as much as in the former. In one case this profit rises to 2.17 francs per head of the population. The salt is distributed at wholesale from state magazines located at convenient intervals, while household supplies are obtained through the ordinary channels of retail trade at a very slight advance. The financial returns to all the states together amounted in 1888 to about 3,760,000 francs, and the public was doubtless on the whole further benefited by obtaining salt cheaper than it would have done without the monopoly.

In comparison with salt, the other state monopolies are meagre sources of income. The mineral products of Switzerland are few and found only in small quantities. There is but one coal mine in the whole confederation which is productive of royalties. This is in Zürich, and paid in 1888 a tax on its output of only 665 francs. A cement factory, however, in connection with the mine yielded the state 21,484 francs in addition. The canton of Glarus is the owner of a slate mine, but this is more of a convenience than a source of revenue, since the net results for 1888 were but 4500 francs.[2]

Following the example of the confederation as wholesale monopolist of spirituous liquors, the city of Basel has recently[3] assumed the monopoly of retail distribution. This

[1] Cost about 50–65 cents per 100 lbs. Selling price at wholesale varying from $1.00 to $2.00 per 100 lbs.

[2] Volkswirthschafts-Lexikon, II. 157.

[3] Ordinance of April 4, 1888, Volks. Lex. II. 157.

covers the high grades of alcholic beverages, but not alcohol for use in the arts, nor the weaker spirituous and malt liquors, the sale of the latter being regulated by a system of licenses. For the fine distillations there are government stores, which are to be established according to the demand, but shall not exceed twenty in number. These are furnished by the cantonal finance department with liquors obtained from the federal administration, and at a price somewhat in advance of that paid to the confederation.[1] The further preparation of liquors for drinking purposes lies in the hands of the storekeeper, but under official control. The dealer is not a government officer, but gets his profit by selling at market prices, and gives bond to the state that the place will be properly conducted. Statistics are not at hand sufficient to show the permanent results of this experiment, but the attempt to carry the monopoly into the details of distribution will be well worth study in the future, especially from the sociological standpoint.

The list of monopolies should include state railroads, but not enough of them exist to affect the finances of the country to any great degree. Bern was at one time a large railway owner, but her lines, after falling back into private hands, have now come into possession of the confederation,[2] leaving only two small lines in Geneva and Neuchatel to represent the state idea.

Royalties from fishing and hunting privileges are sometimes demanded by the canton, sometimes by the community, hence their place and financial resources is somewhat difficult to fix. Water-power, or the use of public streams for mills and factories, is taxed in eleven cantons; in four of these for the benefit of the state treasury.[3] The total revenue derived

---

[1] In 1888 the profit was fixed at 12 francs per 100 kg.

[2] See page 87, above.

[3] Schollenberger, Die schweiz. Freiheitsrechte, p. 9, gives, under the head of Handels- und Gewerbefreiheit, a summary of all taxes and restrictions on trade and industry in the various cantons.

from the use or taxation of natural privileges, except from the production of salt, is but a small item in the cantonal budget. From mining, water-power, forestry, hunting and fishing, less than five hundred thousand francs is received in the whole confederation.

As an item of taxation, or perhaps as a public convenience, rather than a source of income, the subject of State Fire Insurance ought to be mentioned here. In many of the cantons government takes the place of private insurance companies, receiving premiums and paying losses resulting from fire. This system began in Switzerland in 1808, and nearly all of the states which accept fire-risks adopted the idea during the first four decades of this century. In most cases insurance in the state company is obligatory; all buildings above a certain small value, except those involving extraordinary risks, such as chemical factories, powder-mills and the like, being subject to enrolment and taxation with the government premium, to the exclusion of private enterprises of the kind.

State banks are maintained in a large majority of cantons. These are regarded both as financial enterprises and as social conveniences for the benefit of the borrowing class. Most of them are managed on state account, yet others are stock corporations, sustained by government guaranty. There are also many small banks, chiefly for savings deposit, which are operated under the guarantee of the communities in which they are situated. Banking, under the present federal constitution, cannot be made a government monopoly, for the article prohibiting the confederation from assuming the sole right to issue bank-notes has been held to prevent also any state from monopolizing the issue of paper money within its own limits. Consequently the state goes into banking as a business enterprise rather than as an exercise of its sovereign taxing powers.

The miscellaneous taxes which are laid upon the small transactions of life display a wide variety of principles as

well as practical applications. The state is sometimes the beneficiary of a given tax, sometimes the community, the large cities being especially apt to multiply these financial rivulets. Of those in which the state government is chiefly concerned, the taxes upon exchanges of property are the most productive, but are closely followed by the market and peddling licenses. An enumeration of the various taxes of this class would exhibit a curious mixture of sumptuary and fiscal expedients, but would not allow us to draw any safe general conclusions as to their extent or effect.

Direct Taxation.

Behind all these indirect sources of revenue stands the power to call upon the citizens to contribute directly from their wealth for the good of the state. Some of the old community laws used to say that if the revenues from the common lands did not suffice for schools and public purposes, the *deficit* would be made up by taxation.[1] Perhaps this is the explanation of the direct contribution everywhere in Switzerland, but at present this so-called deficit is usually larger than the other portion, at all events the most conspicuous in the minds of lawmakers and taxpayers.

As to the various methods of taxation, it is to be observed that a Property Tax exists in every canton; that is to say, an assessment in some form or another upon the total estate, real and personal, may be found in all parts of Switzerland. In a very few states there is a Land Tax (*Grundsteuer, Impot Foncier*), under which the soil pays a tax fixed by exact survey and appraisement according to productivity. Income taxes are imposed by various methods, side by side with the property tax, in the great majority of cantons. Poll taxes find a place in about half of the states, and the same may be said for the tax upon inheritances. A study of the list shows

[1] More recently stated in Township Laws of Zürich, *Gesetz betreffend das Gemeindewesen*, 1875, Art. 129.

that the succession tax is employed especially in those cantons which contain the important cities and, consequently, the busier and wealthier populations.

Conspicuous among property and income taxes, because of its regular and uniform recurrence, is the Military Exemption tax, of which one-half accrues to the confederation and one-half to the state. This, however, has been sufficiently described under the subject of Federal Finance.[1] Further examination of this branch of taxation shows that in a large number of states the progressive system of assessment has been adopted to greater or less extent. In many cases both income and estate are taxed progressively, while in others property pays its simple proportion, and income is assessed according to an increasing ratio. Zürich, Basel, Vaud and Graubünden exhibit characteristic developments of the progressive system; the fundamental principles which govern its employment, as viewed by these democracies, being well expressed in the constitution of Zürich:[2] "All persons liable to taxation must contribute to the support of state and community in proportion to the means at their disposal. The property and income tax is to be arranged according to classes on the principle of moderate and just progression. Property of small value belonging to persons unable to work, as well as that part of all incomes which is absolutely necessary to life, is exempt. The progression shall not exceed five times the simple rate in the case of income, nor double the simple rate in the case of property. For local purposes, property can be assessed only proportionately."

Though not always expressed in constitutions, the other progressive states have followed similar principles, with variable regulations for exemption and assessment. In Graubünden, for instance, property-owners are divided into eleven classes, the first including all estates from one thousand up to twenty thousand francs, the others following at

---

[1] Page 74, above. [2] Article 19.

intervals of thirty thousands. The tax on the first class shall be the first, or simple assessment; that on the second, one-tenth greater for every thousand, and so on upward.[1] Private properties below one thousand francs are exempt. The income tax is laid upon all earnings above 200 francs per year, except where the person owns taxable property and earns less than 800 francs, and in a few other cases. The greater the income the higher is the rate of assessment; receipts from all sources being brought under the law except income from agricultural pursuits.[2]

It is beyond the scope of this chapter to attempt a detailed comparison of the methods of direct taxation employed throughout the confederation; or to explain the various economic effects. In regard to the progressive system, it is safe to say that it has met with the approval of the people wherever adopted and is gradually gaining wider acceptance. This popularity is doubtless largely due to the fact that by this method a large number of small taxpayers can make a

---

[1] Property Classification in Graubünden (*Steuergesetz*, 7. Sept. 1881, Art. 3):

First,	Fr. 1,000— 20,000	Simple rate (say one franc in 1000),
Second,	20,001— 50,000	plus $\frac{1}{10}$ for each additional 1000.
Third,	50,001— 80,000	" $\frac{2}{10}$ " " "
Fourth,	80,001—110,000	" $\frac{3}{10}$ " " "
Fifth,	110,001—140,000	" $\frac{4}{10}$ " " "
Sixth,	140,001—170,000	" $\frac{5}{10}$ " " "
Seventh,	170,001—200,000	" $\frac{6}{10}$ " " "
Eighth,	200,001—230,000	" $\frac{7}{10}$ " " "
Ninth,	230,001—260,000	" $\frac{8}{10}$ " " "
Tenth,	260,001—290,000	" $\frac{9}{10}$ " " "
Eleventh,	290,001—320,000 and over.	" $\frac{10}{10}$ " " "

[2] The income tax depends also on the rate fixed for the property tax. In case the latter is fixed at one franc in 1000, the progression for income is as follows:

Class.	Income.	Per cent.	Class.	Income.	Per cent.
1.	1— 800.....	$\frac{1}{4}$	7.	5,001— 5,500.....	3
2.	801— 1,500.....	$\frac{1}{2}$	8.	5,501— 6,000.....	$3\frac{1}{2}$
3.	1,501— 2,000.....	1	9.	6,001— 6,500.....	4
4.	2,001— 3,000.....	$1\frac{1}{2}$	10.	6,501— 7,000.....	$4\frac{1}{2}$
5.	3,001— 4,000.....	2	11.	7,001—12,000.....	5
6.	4,001— 5,000.....	$2\frac{1}{2}$	12.	12,001 and over.....	$5\frac{1}{2}$

minority of rich men bear the greater part of the load. There is, however, a principle of justice in the idea that the wealthy man ought to contribute, not only in proportion to his goods, but in increasing proportion as he becomes wealthier, and the experiments tried in Switzerland have tended to equalize the burden and to begin to break down the divisions between the classes; but no system of taxation has yet been invented which works perfectly, nor is there one which satisfies both government and people. Swiss finances suffer from a disease not unknown in America, namely, undervaluation, or, plainly spoken, tax-dodging. The principle of self-taxation, or the listing of property by the taxpayer himself, is vigorously insisted upon, as if it were a natural right of man; but, although the detection of fraud and punishment of obstinacy are placed in the hands of tax commissioners, the temptations to under-assessment are too great. Consequently, in many places rates are high, and in reality the pressure of taxation is heavy. This is especially true of the great industrial centres, where much more public money is expended than in the agricultural states. Hence there is more or less casting about for new financial expedients of an indirect kind, now that the alcohol monopoly has proved to be fruitful. Indeed, an eye is turned upon the federal tariff to see if that cannot be stiffened somewhat for the benefit of the taxpayer. The burden of direct taxation *per capita* of population is not excessive, but this does not altogether reveal the weight laid on the persons who actually contribute. Although not arrived at a critical point, the questions of taxation are causing earnest consideration on the part of her economists.

The support of local government is found chiefly in direct taxation. Many communities have funds and domains, but the income from these must be supplemented by contributions from the pockets of the citizens. Elaborate laws in many cases mark out the field to be occupied by town taxation, procedure and rates being made uniform by cantonal enactment. In Zürich, for instance, no progressive tax can be

laid for local purposes, and the direct tax must everywhere be made in the proportion of one franc in the thousand of property, one franc on every household, and one franc for every voter. Towns and cities assist themselves further by means of indirect taxes, other than those levied for state purposes. Fees from public scales, slaughter-houses, baths, hacks, water-rates, funerals, and other minor matters contribute something to the general fund, but form, in proportion to the direct taxes, an unimportant source of revenue.

The purposes for which public money is expended may be sufficiently inferred from what has been said in previous chapters concerning the functions of state government, and from what follows in respect to local administration. Wide differences will be found, however, in the ideas prevailing in the various cantons as to what the duties of the state are in the matter of public expenditure. In the quiet agricultural states the wants of the people are fewer than in the active industrial centres. In Schwyz the government expense in 1888–89 was 7.4 francs *per capita*, while in the same year in Basel the outlay was 80 francs.[1] On the whole, the expenditures of Switzerland are much less than those of neighboring states. This may be ascribed in part to the lighter military burden, in part to the fact that no monarchs and courts must be supported, and further, to the inclinations of the Swiss people for practical rather than ornamental matters.

[1] The following comparative table of expenditures, abridged from Volkswirthschafts-Lexikon, is instructive when considered in connection with the natural and commercial resources of the cantons.

State expenditures 1888–89 *per capita* in francs:

Zürich, 33.	Freiburg, 26.4.	Graubünden, 18.4.
Bern, 40.	Solothurn, 20.8.	Aargau, 14.
Luzern, 12.3.	Baselstadt, 80.	Thurgau, 17.3.
Uri, 25.4.	Baselland, 11.6.	Ticino, 16.
Schwyz, 7.4.	Schaffhausen, 27.8.	Vaud, 26.
Obwalden, 9.1.	Appenzell, Int., 10.	Valais, 11.5.
Nidwalden, 9.2.	Appenzell, Ext., 8.4.	Neuchatel, 26.5.
Glarus, 23.5.	St. Gallen, 12.	Geneva, 55.
Zug, 11.5.		

CHAPTER XVI.

Community and Citizenship.

Local government in Switzerland strikes root so deeply into the past that a brief examination into its history is almost necessary to a proper understanding of its present; and once we begin to trace back the course of institutional growth we soon discover that two lines of development have been followed, or better, perhaps, two points of departure have determined the direction of community evolution. In portions of the country the old Germanic *Markgenossenschaft* was the germ which grew in time to be the community and sometimes the state; in other places, it was the fortified castle.

The neighborhood association of the *Mark* was governed by very simple laws. At the stage of development at which we begin to study the rural hamlet in Switzerland, each household probably possessed a home, a garden spot close by, and a share in the cultivated fields and surrounding woodlands corresponding to its needs. Neither the arable land nor the wild pasture and wood was divided into individual shares. The fields were allotted to the families year by year, subject to rules of cultivation established by the community; one year spring grain, one year winter grain, and one year fallow, in regular rotation. The woods and pastures were not divided even so much as this, but each householder cut as much timber as he needed, and pastured as many cattle as he happened to have, without regarding any particular part as his own.

Even under these simple conditions some kind of community government would be necessary, and would gradually

expand as population grew. The time of sowing and reaping must be fixed, the time for pasturing the stubble determined, roads mended, disputes settled, and many other matters, at first simple, but later more important and complex, resolved upon.

As time passed, the ownership of cultivated fields became fixed in private hands, but the common lands remained, as before, the common property of the village, as even to this day the *Allmend* is a feature of many Swiss communities. The question as to who was a citizen and who might become such, was not at first a serious matter. So long as there was plenty of land there was doubtless little difficulty in providing for new settlers, either those springing from the natural increase of population or those coming in from outside. But there came a time when the citizen found that to admit new members to the community was to appreciably decrease his share of the common benefits, and barriers began to be placed against admission. A price, corresponding to benefits received, must be paid before membership in the village could be reached, and this entrance fee became relatively very high. Participation in the government of the commune also depended on the question of shareholding, and those who had been admitted by birth or by purchase to the benefits of the common lands were alone competent to vote on village matters.

Others were allowed to settle without full admission, but their position was strictly subordinate. As laborers and tradesmen such were tolerated, but they could have no share in the revenues or privileges of the common lands nor voice in adminstration.

Later still it came to be a custom also for settlers to purchase the right to live in the community without taking shares in the common lands or common revenues, and thus a status of citizenship was engendered, independent of the community proper, but giving voice in some part of its administration. These modern Metoeci were the so-called

Hintersässen and *Niedergelassenen*. So the result of growth to the old agricultural village was to superimpose through increase of population a complex, stratified citizenship upon what had been before a simple, almost private corporation.

The other point of departure in community development was the fortified Burg, which grew more easily than the country village into a municipality. About the castles of the magnates there gathered the houses of their subordinates; soldiers' families, artisans, agricultural laborers and others, until these forts became centres of towns of considerable size. Endowed with rights of self-government and many other privileges by kings and barons, in return for loans, or for their allegiance in times of difficulty, they rapidly gained in population and wealth. The inhabitants of the Burg became the *burgenses* or burgers, and advanced so much earlier to a knowledge of the rights and duties of citizenship and of the science of government, that in time the name came to be applied to all citizens, whether dwellers in towns or open villages.

For the control of a walled town there must of course be maintained a stricter discipline than for a community of farmers. Regulations for the call of the militia, sentry duty, fire watch, street patrol, markets, and a multitude of other matters would need the attention of the citizen, and these constantly increasing in extent and intricacy, would teach perforce the art of municipal government. Hence, when we come down to modern times and see rural communities come out of the old agricultural condition and adopt uniform and improved systems of administration, we find that the old Burgs have been a long way in advance, and furnish the ideas which are followed by their neighbors.

Although we are at this point concerned only with the development of the community, it will be well to observe that, as in the more sparsely settled districts, the ancient *Markgenossenschaft* became by accretion the state, so in other places the *Burg* developed first into the city and then into the

sovereign state. Thus Bern, Zürich and Luzern, especially during the oligarchical period, while possessing large outlying territories, were essentially city governments. Only in modern times have these relations been adjusted.

We need not follow through the long line of changes which have little by little overtaken the Swiss community. The prevailing characteristic was always local independence, with very slight interference on the part of the state. The passage of the Helvetic Republic left very little permanent trace of itself on community government. The cantons became for the time departments, and the towns and communes sub-prefectures, all ruled from above; but as soon as the pressure of France was removed, the old state of things returned. Gradually, under the impulse of the new political ideas which brought about the constitutional reforms of 1830 and later, the modern form of community government has emerged from the shell of the old.

The matter of citizenship, however, cannot be thus summarily dismissed, if we desire to understand the present conditions. Switzerland is, in some respects, unique in its regulations respecting the domicile and civil capacity of its subjects. First, the citizen is a member of a certain community, no matter whether he lives in it at the time or not. Second, he can never lose this citizenship without the consent of his native state. Voluntary abandonment counts for nothing unless this consent has been obtained. There is a general citizenship of the state or confederation, distinct from local, but it cannot exist by itself. Membership in the state depends on membership in a community.

We are obliged to glance at the history of the country to explain these phenomena, and, strange to say, we find these peculiarities due largely to the methods adopted in the 16th century to eradicate vagrancy. In other words, the tramp question at that early day determined the citizen question of our own time.[1] During the middle ages the poor had been

[1] Other complications also arose in cities from conferring citizenship upon persons living in other places.

the care of the church. Numerous monasteries and ecclesiastical foundations had furnished shelter and food, sometimes temporary, sometimes permanent, at all times indiscriminate, for the unfortunate and the shiftless. The Reformation, however, by the secularization and abandonment of many of these institutions, caused for a time great confusion in the matter of poor relief, and the consequence in Switzerland was that the country was filled with a horde of vagrants, some deserving, some unworthy, who gained their living at the expense of the well-disposed. They naturally flocked to those cantons where the cloisters were still maintained, and these, not being in a mood to bear the double burden of both Catholic and Protestant tramps, attempted to drive off the latter, and, in general, to shift the pauper class from one canton to another. This, however, led only to recrimination, and the vagrancy question was as far from settlement as ever. Foreign beggars also were a source of great vexation, since they stole the bread out of the mouths of the Swiss poor. In 1551 the Federal Diet took hold of the matter in earnest, and passed a law to the effect "that every town, also every village and parish should sustain its own poor people according to its ability." As a means of getting rid of the foreign vagrants it was resolved to give them no licenses to beg, and as for the native poor, they were to be distributed *pro rata* among the states and communities.

Following the lines laid down by the Federal Diet, the various cantons from time to time enacted laws insisting upon local support of paupers, until it became very important to know where a man belonged, and the question as to who should maintain a person when he fell into poverty became completely fused with the question of citizenship. Great jealousy was exhibited by communities toward new arrivals. Persons who moved from one place to another were for a long time obliged to give bond that they would never become a charity burden in the parish of their adoption, and when they did reach this unfortunate condition they must return to their town of origin, or be supported by it.

These regulations passed through many phases in the course of three centuries, the constant aim being to establish every person in some locality which he must regard as his "home," *Heimath*. Yet notwithstanding these efforts there grew up a class whom no place would acknowledge as its own—the *Heimathlosen*. They wandered about from place to place, sometimes in great bands, as tinkers, or basket-weavers, or gipsies pure and simple, until they became in the early part of this century a matter of serious concern to the confederation. They were, however, at last taken hold of, the vagrants assigned to some definite community as citizens and compelled to look there for support.

But it is manifestly impossible, even if it were not unjust, to keep people for any great length of time in one place. Occupation and desire for improvement cause population to constantly change. Modern industrial life demands it, and comparatively few people live all their lives in one town. Hence in Switzerland the mediæval hindrances to settlement and change of residence have been so far removed that no good citizen can be prevented from adopting any community whatever as his place of abode.

The federal constitution guarantees to every Swiss "the right to settle in any place within Swiss territory if he possess a certificate of domicile (*Heimathschein*) or testimonial of like import."[1] In exceptional cases this certificate can be refused to persons who have lost their civil rights through sentence of a criminal court, and can be taken away from persons frequently subject to conviction of crime, or who persistently require poor relief which the community of origin refuses to furnish. In cantons where parish poor relief obtains it may be required that the newcomer be able to work, and that he has not been in any continuous way dependent on charity, but no bond or other special burden shall be demanded, nor can he be taxed differently from other

[1] Art. 50.

citizens. A federal law establishes the maximum payment for admission, which is a moderate notarial fee. Nevertheless the regulation holds good that the "home" canton cannot be thus lightly changed. Unless he buys himself a new *Heimath* at considerable cost, the citizen must get his poor relief at the town of his nativity, no matter where he spends his days of affluence.

Hence there are to be found in every community different classes of citizens living side by side. *Bürger* are those who by nativity or by purchase have acquired the right to vote on all matters which come under the control of the community, and are entitled to support when reduced to poverty.[1] *Niedergelassenen* are those who have moved from other places and have been duly accepted as citizens. These have a voice in all matters except those touching the common lands and poor funds, and obtain no use or dividends arising therefrom. They exercise the rights of cantonal and federal citizenship equally with the Bürger, but have fewer privileges in the commune. Being born in a certain village does not necessarily make one a full citizen of it. The parents must have been also full citizens. The children of *Niedergelassenen*, as a rule, must remain in the same political state until they purchase a share in the close corporation.[2] In case they need poor relief they must look to the community where their fathers or grandfathers were citizens. *Aufenthalter* are persons who have simply the privilege of residing in the community without political rights.

Upon this basis, therefore, the framework of local government has been built. Community life expresses itself in terms of citizenship, and allowing for a multitude of variations in minor details, exhibits the following classification:

The Political Community, variously known also as the Resident Community (*Einwohnergemeinde*), Municipality, or

[1] Acquired in the case of women by marriage.

[2] In some places, residence for a long term of years entitles a *Niedergelassener* to full citizenship without purchase.

Parish (*Kirchgemeinde*), but always with the political idea uppermost, is a territorial unit which corresponds to the American township. It is a convenient subdivision for the exercise of suffrage and of those local rights which are guaranteed to every citizen. Its membership includes every qualified voter residing within its limits.

The Bürger Community (*Bürgergemeinde, commune bourgeoise*) is usually bounded by the same lines as the Political Community, but includes as participants only full citizens. These are, of course, also political citizens, if residing there, having the additional advantages of *Heimathrecht;* but many members of the Bürger community may not live in the place at all. They may never have even seen it, but may, if they choose, claim a voice in its administration, the duties of which include the management of the poor funds, and frequently the guardianship of orphans.

Within these same limits there is another community which no longer has a public character as a subdivision of the state. This is what we may call the Commons-Corporation,[1] or the people who have the right to the use and management of common pastures and woods. This is now simply a private corporation enjoying hereditary rights, and in most places is all that remains of the original *Markgenossenschaft.* The Political Community is the most conspicuous unit of civic life, but it is also the most recent. As modern industrial life began to make itself felt in Switzerland, and transportation and communication became more rapid and easy, the character of population in towns changed very decidedly from the mediæval condition. A large part of every community came to be residents (*Niedergelassenen*) instead of citizens. It was found that an important class would be deprived of political rights unless provided with some means of local government in which they could participate. Hence came about gradually the institution of the inhabitant, or political community. The organization of the Bürger Com-

[1] *Corporationsgemeinde.*

munity remained intact within this political community, for the benefit of those who by inheritance or purchase were entitled to the privileges of the common lands, and for the purpose of maintaining the fixity of poor relief. The administration of this portion of the community included at first all the common lands, the regulation of their use, and the division of profits; but as villages grew, a three-sided conflict became more and more evident between the interests of the old original families, the adopted full citizens, and the political residents.

The first would find their dividends diminished by too frequent admission of new shareholders. The larger the place became the more evident was it that the products of the commons should be used for public expenses, especially poor relief, and when additions were made to the domains it might be difficult to decide whether these were to be used for general or private gain. Residents, on their side, would naturally want to see the dividends expended upon as many public interests as possible. So in quite recent times a division has been going on between the old vested rights of the *Allmendgenossen*, or time-honored shareholders in the Mark, and the less ancient Bürger Community, which represents the side of poor relief. It will be understood that the former are still included in the Bürger class, but the confusion of private and public rights has been settled by a division of property.

The *Markgenossen* are now as a rule simply corporations of private citizens whose rights are recognized and guaranteed by the constitution. The Bürger Community also possesses funds and domains, but these are destined primarily for the support of the poor, and the rule is sometimes laid down that there shall be no division of proceeds so long as taxes are levied in the community for charitable purposes.

Within the commune there also exist one or more School Communities, or School Districts. These also, within the limits of law and constitution, are self-governing corporations on all matters relating to local education. The Parish, or

ecclesiastical district, as a territorial division varies in extent, sometimes including more than one political community, sometimes forming only a part of one. This church community includes all persons of the same confession residing in its limits, the only recognized differences in faith being Catholic, Protestant, and Israelitish. There may be, accordingly, three different *Kirchgemeinde* in the same place. The Catholics may meet together to manage their own affairs as one body, the Protestants as another, and the Hebrews as another; no person having a vote in a communion other than his own.

Organization of the Commune.

The highest authority in local affairs is the town-meeting, the *Gemeindeversammlung*. For the Political Community this consists of all the resident citizens, *Bürger* and *Niedergelassenen*, who meet together on stated occasions, or at call, to elect the village officials and to determine questions of importance. Within the competence of the Political Community lie all matters relating to local police, sanitation, fire extinction, roads, pavements, and the like. Upon such questions the town-meeting forms resolutions, votes, and hears reports. Into matters touching the adoption of citizens, the management of the purely corporative domains and funds, or other questions belonging to the full citizens, this assembly does not enter. These are duties of the *Bürgergemeinde*. But the political or inhabitant assembly already includes the full citizens, hence it is usually the custom for this body simply to resolve itself into a *Bürgergemeinde* by not allowing the *Niedergelassenen* citizens to vote on matters which belong exclusively to the inner circle. Still the political assembly has by far the more important role to play. In it take place the elections, federal, state and local; it is the local unit of state government and the residuary legatee of all powers not granted to other authorities.

Its procedure is simple and highly democratic. It meets

either at the call of an executive council of its own election, or in pursuance of adjournment, and, as a rule, on a Sunday or holiday. Its presiding officer is sometimes the mayor, sometimes a special chairman (*Gemeindepresident*). Care is taken that only voters shall sit in the body of the assembly, it being a rule in Zürich that the register of citizens shall lie on the desk for inspection. Tellers are appointed by vote, and must be persons who do not belong to the village council, since that is the local cabinet which proposes measures for consideration. Any member of the assembly may offer motions or amendments, but usually these are brought forward by the town council, or at least referred to that body before being finally voted upon. A careful record of proceedings is kept by the town clerk.

The *Gemeindeversammlung* of the political community elects the principal town officials. These are the village mayor (*Gemeindeammann, Gemeinde Hauptmann, Syndic, Maire*), the council (*Gemeinderath, Conseil Municipal*), the town clerk, and such other minor officers as are not left to the choice of the town council. Practice differs respecting the election of administrative officers for the *Bürger* community. Choice is given between the election of a separate council or the turning over of *Bürger* matters to the council of the political community. The latter method is more frequently used, and care is taken that a fair representation of full citizens is elected to the council. Thus one feature of what might seem a complicated matter is put aside by simply giving double functions to one body.

The parish meeting, or *Kirchgemeinde*, as stated above, is the assembly of all the members of the same confession living within the boundaries of the community or precinct. In Zürich the presiding officer of this assembly is the village mayor, or, where he does not belong to the same confession, his deputy; but practice differs widely. In some places the manager of church property (*Kirchenvogt*) is leader of this assembly. Here all matters respecting the church are con-

sidered, election of pastors, building and repair of houses of worship, management of funds, just about as would be done in a single church in the United States, except that the state has a certain oversight of things, and the rights of voters and methods of procedure are regulated and guaranteed by law and constitution.[1]

The School District Assembly may include all the voters of a community, or a village may include a number of such districts. However this may be, the assembly, *Schulgemeinde*, is a meeting of all the voters of the precinct for action upon school matters. Here a Board of Education is elected, taxes voted for school buildings and similar purposes, and a general supervision exercised over all educational matters. Sometimes the teachers are elected by this assembly.

Community Administration.

The *Gemeindeammann*[2] is the chief executive officer of the commune. He executes the decrees and ordinances of the Communal Assembly and Council, and maintains a general oversight of the municipal machinery. He is also the agent of the cantonal government for the local execution of state laws. This doubtless accounts for the fact that in Freiburg the Syndic is appointed by the Council of State instead of by popular election. He is often a police judge, with varying degrees of competence, and executes decrees of courts in matters of debt, forced sale and the like. The term of office is usually several years, but varies widely.

The Communal Council[3] is a board associated with the mayor in the administration of local affairs. Its duties are but in a small degree legislative, since most matters of weight are referred to the town-meeting. Constant supervision is expected

[1] The relations of church and state are discussed later on, Chapter XVII.

[2] *Gemeindepresident, Syndic, Maire.*

[3] *Gemeinderath, Conseil Municipal.*

of the Council in all matters touching the maintenance of order, sanitation, the management of domains and funds, fire extinction, lights, pavements, as well as general oversight of educational and religious endowments. The Council prepares and presents to the Communal Assembly drafts of laws and ordinances, which may have originated with the members of the Council themselves, or have been referred to them for opinion. They estimate the revenues and expenses of the community, and propose each year a budget for the consideration of the town-meeting. They provide for the levy and collection of taxes, including state as well as local. In addition to this, the Council is in many places an Orphans Court, and attends to matters of guardianship. As a rule the members are elected for three years or more, subject to the laws of kinship, mentioned above in connection with the state executive.[1] Practice varies in the matter of payment for attendance. Sometimes it is by stated salary,[2] sometimes by fees,[3] and again in other cases service is gratuitous and coupled with compulsory acceptance of office.

Space does not permit me to go into all the details of city and village government, nor to point out the varieties of officials and names by which they are designated. Enough, perhaps, has been said to show that as much local autonomy prevails as is compatible with inspection by the state. The town can tax itself as much as it pleases for improvements, and its spending powers are limited only by some such general provision as that the existing domains shall not be sold, or diminished in amount without the consent of the state government.

Compare this with the arrangement so prevalent in the United States, under which a township must go to the state legislature for permission to tax itself for the smallest kind of a sum beyond a fixed constitutional limit. This limit is usually so small as to cover only the bare necessities of government and poor relief, and subjects all effort for public improvement to the sanction of a distant assembly. The

[1] Page 143. [2] Ticino. [3] Zürich.

consent of this body is usually given through indifference, or hostility is displayed for corrupt purposes. At best it is the perversion of independence.[1]

Connection with the state is maintained in most of the cantons, not by interfering in local matters in which the general public has no interest, but by exercising powers of administrative inspection which bring about uniformity in the execution of the general laws. The local mayor being also for certain purposes a state officer, the commune is in constant communication with the central government, and thus becomes a member of the body politic without being held in tutelage.

The practice of certain Romance cantons should be noted here as indicating somewhat the different political instincts of the two sections. In the Germanic commune the final source of power and authority is the popular assembly. That body elects the officials, votes the taxes, undertakes new enterprises, and supervises its administrative agents. In Freiburg, Vaud, Neuchatel, especially in the larger communes, and in the city of Geneva, an intermediate authority is established to which many of these functions are delegated. The *Assemblée Générale* elects a *Conseil Général* or *Conseil Communal*, varying in size according to the size of

[1] A case occurred recently in Ohio which illustrates two curious phases of this question: the insignificance of the amount needed, and constitutional trespass upon popular rights.

At one of the county seats a public reading-room was desired, and a few persons interested in the project urged the levy of a tax of one-tenth of one mill on the dollar, to raise, in all, the sum of $600 a year. The local member of the state legislature being agreeable, a bill was immediately passed, and before the citizens were aware of it, they were provided with the means for sustaining a reading-room. Few objected to such an institution, but the matter had been done so quietly and suddenly, that the town's people felt that they had not been consulted, and so great was the outcry that it was deemed best to repeal the law. The act had been passed with the best of intentions, but it shows how undemocratically we may do things.

[2] See Orelli, p. 134.

the commune, to which are referred many quetions which would in the German villages be laid before the whole body. In Vaud the constitution provides that in all the town councils, general council as well as the smaller executive council, there shall be a majority of full citizens (*bourgeois*).[2]

The *conseil générale* is in reality a legislature which acts for the people, the citizens becoming simply a body of electors. The councils discuss and vote upon the annual budget, supervise the administration of the public domains and funds, the various departments of government, construction of public works, and in general all matters which pertain to the interests of the commune.

In Geneva, the deliberations of the councils are sent to the Council of State, and should not be put into execution without the approval of the latter, especially if matters which touch upon finance, sale or division of real estate and judicial decisions pertaining thereto, legacies or donations for definite purposes, opening and closing of streets, changes of alignment, or expropriation for public uses.[3]

Thus a real control is exerted from above, more evident than in the Germanic states, where supervision does not extend to such a degree of detail. Two advantages are gained by this system. Where councils are employed, the life of the community is less liable to be directed by the transient voters, who often form a majority of the residents. Members of the council, elected for three or four years, even if not full citizens, as required by law in some places, would act less heedlessly than a larger assembly of less permanent inhabitants.

The power of state inspection brings about a certain uniformity which perhaps may be lacking in German cantons. The actions of all communities being submitted to one central

---

[1] Vaud, 25–100, (Art. 82), Geneva 8–18.
[2] Const. Vaud, Art. 84.
[3] Droz. Inst. Civique, Appendix by Gavard, p. 38.

authority, a likeness would necessarily follow from the supervision of such a court.[1]

These results, however, are obtained at a certain sacrifice of freedom and originality. The Teutonic communes present a varied picture of social life and organization, all of which is chiefly the result of local initiative. What is done is accomplished by self-government, with the participation of every citizen. The French communes are by no means less civilized, but their advancement is less a product of their own making. They exhibit traits characteristic of their neighbors of France; a liking for order and uniformity, and the logical application of any established regulation.

[1] Orelli, Staatsrecht, 137.

CHAPTER XVII.

Church and State.

The general principles which govern the exercise of religious worship, and the measure of freedom of conscience, which by law prevail throughout the whole confederation, have been briefly indicated in a previous chapter.[1] The practical application of these fundamental rules belongs, however, not to the union, but to the states, and as it is in respect to political institutions, so in religious matters, there is wide variety in the form of church government and in the actual amount of personal liberty. The relations of church and state bear traces of the historical experiences through which they have passed, and their present condition has been largely determined by natural characteristics of race and locality, moulded into form by events which have occurred chiefly since the beginning of the sixteenth century.

Previous to the great religious revolution which we call the Reformation, the allegiance of both people and government was unhesitatingly given to a single church, the Roman Catholic. Government, as everywhere customary at that period, was the sword-arm of religion in maintaining discipline and in exacting material support. It was regarded as a simple matter of course that the management of religious affairs should be included among the duties of ordinary civil authorities, and taxes were laid upon all for the support of a common worship. Although the Swiss had been somewhat independent in their relations to the Papal See, there was no other religious authority, nor system of belief, which received any recognition, or even toleration in that country.

---

[1] See page 92.

The preaching of the reformers, however, soon changed this level condition of affairs. Certain parts of the population adhered to the new doctrine, and, wherever the converts were strong enough, they proceeded to make a place for the new form of worship. Owing to the completeness of state-sovereignty in the old confederation, every canton could regulate religious affairs entirely to suit itself, and wherever the Reformation gained a foothold this right was exercised in its behalf. The new worship, in such cases, supplanted the old and became the exclusive religion of state. Toleration of sects was as yet unknown, and discrimination went so far that one canton, Appenzell, was in 1597 divided into two parts, in one of which only Catholics, in the other only Protestants might dwell. Much unpleasantness, even war, grew out of this condition of things; but the states, finding themselves about equally balanced between the two parties, finally agreed not to combine against each other to force the adoption of any belief. This caused more or less cessation of hostilities across state borders, but within each canton exclusiveness reigned, whichever party was at the helm.

There were certain territories, however, which were not independent, but owned and governed in common[1] by partnerships of Catholic and Protestant states. The people of these districts were divided in their religious convictions, and some method of satisfying their demands and some compromise between the ruling cantons had to be found. It was here that the entering-wedge of religious liberty for the whole confederation was inserted, for, although individual liberty was long held in abeyance, the states were obliged to recognize community choice in the subject territories. There each parish was allowed to decide for itself whether it would worship under Catholic or Protestant forms, and the minority must conform to the vote. The sects were thus put on an equality, and the principle of "parity" (*Parität*), which still plays something of a role in religious matters, took its begin-

[1] *Gemeine Vogteien.* See page 17.

ning. Outside of the territories, equality was a question for states, not for communities. In a few cantons some local freedom was allowed, but personal liberty and the quieting of denominational animosity were brought about only by the lapse of long periods of time.

Four interstate treaties, called *Landfrieden*, dating from 1529, 1531, 1656 and 1712, mark the slow steps of religious liberty through all those centuries. None of these acts established more than territorial freedom of worship. The Helvetic Republic afforded a short breathing-space for unobstructed liberty of conscience, but gave way, under the Act of Mediation, to simple liberty of worship for Catholics and Protestants. The Pact of 1815 failed to determine the status of religion, except to sustain existing institutions by guaranteeing the inviolability of monasteries and their property, thereby leaving an opening for misunderstandings which culminated in the civil war of 1847. Even the constitution of 1848 recognized only the "Christian confessions," and guaranteed the right of domicile and of worship only to adherents of these. It is to the revision of 1874 that we must look for the religious rights now enjoyed by the Swiss citizen.

As of old, the regulation of worship lies within the province of the canton, but not, as formerly, under the eye of a nerveless confederation, but according to the directions of a central government whose rules are few but firmly administered. These rules affect the individual and society in general, rather than the constitution of religious bodies. The freedom of belief and of conscience is inviolable, choice of worship shall not be constrained, religion shall not interfere with marriage, nor the legitimacy of children; religious doctrine shall not be forced upon the young in educational systems, and, finally, religious contention shall at least stop at the grave, and every man be decently buried, whatever his belief may have been. All these are uniform laws for the confederation, but for each state there is a different system for giving expression to the more particular religious needs

of communities and individuals. In some parts, government does all things, in others, more is left to private initiative; hence it is difficult to present an exact picture of the state of religious institutions for the whole country. Federal and state constitutions must be studied side by side.

The two grand divisions of religious belief are the Protestant and Roman Catholic Churches, the former being somewhat more numerous than the latter. In nine cantons Catholics preponderate to such a degree that the Roman Church is the exclusive, established religion; in six, both Catholic and Evangelical are supported by the state; in five others there are three state churches, the Old Catholic being added to the former two. In Bern, Geneva and Basel-city, Evangelical and Old Catholic are established; in Appenzell Exterior the Protestant Church is the sole *Landeskirche;* while Neuchatel supports an Israelitish society beside all three of the Christian sects.[1] Thus in all of the states, one or more denominations are supported by the public treasury, but there are also numerous independent churches supported by the voluntary contributions of their members. In addition to congregations of Methodists, Baptists, Irvingites, Darbyites and Swedenborgians, there is, especially in Vaud, Neuchatel and Geneva, a considerable religious body known as the Free Church. This latter denomination sprang from an endeavor to gain freedom from state interference, and at the same time maintain a stricter confession of faith. It was, in reality, a protest within the Protestant Church, and in Geneva and Vaud goes back to the time of the abolition of the Helvetic Confession. In Neuchatel it was a result of the ecclesiastical law of 1873, which made every citizen, *ipso facto,* a member of the church, and abolished all theological tests for ministers.

The Roman Catholic Church of Switzerland is governed by the same forms and authorities that are usually found in other countries. In most cantons the government retains

[1] Orelli, Staatsrecht, 156.

the right to confirm appointments to ecclesiastical office, and exercises a general supervision over the management of church affairs. The confederation is divided into five bishoprics, Chur, St. Gallen, Basel, Lausanne, and Sitten. At present the canton of Ticino is outside of any recognized episcopal jurisdiction, as the federal government refuses to have it made a part of adjoining Italian bishoprics. This is one of those cases, mentioned before,[1] where the state endeavors to prevent divided allegiance in case difficulty should arise with foreign countries. The bishopric Sitten (*Sion*) is governed in ecclesiastical matters entirely by canon law, as no state laws have as yet attempted to change the ancient order of things.

The Old Catholics (*die christkatholische Kirche der Schweiz*) are a body of seceders who separated from the Roman Church during the agitation caused by the proclamation of the doctrine of Papal infallibility. They were sufficiently numerous in 1873 to organize into separate churches, and soon commanded recognition on the part of the state; in Bern, Geneva and Basel-city, the support formerly given to Roman Catholics being now turned over to the Old Catholic denomination. One bishop stands at the head of all Old Catholics in Switzerland, and the general interests of the sect are governed by a synod of all priests in active service, assisted by lay delegates from the churches. A Synodal Council, consisting of five laymen and four ecclesiastics, acts as chief executive committee.

The Evangelical Church, as the established reformed body is usually called, being independent of any foreign hierarchy, displays the most complete forms of local and state self-government. There is no chief person, or persons, whose jurisdiction in religious matters extends over the whole confederation, or even passes over the borders of states. General conventions upon church affairs may be called, but they are without final authority, the ecclesiastical government of each

[1] See page 94.

canton being the highest power within its own territory. Hence we shall find in the Protestant system, the relations of the church to the civil state most fully exemplified. The general principles upon which this relationship is based are, first, that in purely ecclesiastical matters, such as the regulation of church service, choice of hymnals, forms of liturgy, or the instruction of candidates for confirmation, the church authorities shall decide, sometimes with, sometimes without the assent of the state. On the other hand, affairs of a mixed nature, such as the management of church property, payment of salaries, regulation of parish boundaries, and the like, are ordered by the state, on the recommendation of the ecclesiastical authorities. But no exact statement of these relations can well be made, for in some states the church, in others, the civil authority preponderates.[1]

The central church authority in each canton is the Synod.[2] This consists, in some cases, of all the ministers in the state, with deputies of the civil government; in other states it is a variable number of clergy and laity together. As a rule the Synod meets annually to consider the prosperity and discipline of the church. A central executive committee, known by various names (*Synodalkommission*, *Kirchenrath*, etc.), which, as representative of the general assembly of the church, becomes the chief organ of Protestant religious life in the states where it exists, is the power which prepares the business and executes the orders of the Synod. Sometimes this council is elected by the Synod, sometimes only in part; and practice varies as to giving the state authorities a place in it. Its duties include the regulation of admission of candidates for the ministry, oversight of pastoral work, decision of cases of discipline which have been appealed to them, and in some states general supervision of church property. In a few states an intermediate church authority is established in the district. Only in Zürich and Vaud is this a standing committee; more frequently the pastors of the district act as

[1] Orelli, Staatsrecht, 148.

[2] In Geneva, the Consistory.

a minor assembly for the regulation of affairs within their territory, and suggest improvements to the state Synod.

Local religious life finds expression in the parish (*Kirchgemeinde*), which, as we have seen in the study of the community, covers a variable amount of territory according to the number of communicants, and includes all voters within its precincts, who belong to the same denomination. The government of the parish is eminently democratic. As a rule the societies choose their own pastors, though practice varies as to the process of nomination and as to the consent of the civil authorities. The members also elect the church officers and control expenditures and administration by periodical votes and approval of accounts. These local officials, known by different names (*Kirchenrath*, *Stillstand*, *Ehe-gaumer*, etc.), administer the affairs of the society, supervise the work of the pastor, the instruction of the young, and in general keep an oversight of the moral condition of the parish. In some states the church council is also the regular local board of overseers of the poor, and channel of pauper and orphan relief. In some cases, also, entire independence is granted to each congregation in more spiritual matters, as in the choice of an order of worship, hymnal, or liturgy, in others they may choose between those sanctioned by the Synod.

Under these conditions, the pastor becomes in reality an officer of state, drawing his salary, usually, from the cantonal treasury, though sometimes from the parish. The support is very modest, salaries ranging from 1000 to 4500 francs a year, but are sometimes supplemented by the congregation. The term of service in five states is for life, in others it varies from three to eight years, yet there are means by which unpleasant pastoral relations can be changed at any time for cause. Under all circumstances, however, long periods of continuous service are usual, the power of election being a safeguard held more in reserve than in use. The suspension and dismissal of delinquent clergy is accomplished by church boards and synods, under conditions which vary

according to the relations of civil and ecclesiastical authorities in the different cantons. In Bern, dismissal can take place only through judgment of court.

Once elected, the pastor is comparatively free to teach and preach as he thinks best. As it is in civil institutions, so also in Protestant religious life there will be found a large measure of local independence in spiritual matters. The clergy are in every state expected to have had a university training and be able to show a diploma from a theological faculty, but the test of theological belief is limited to some form of oath, of which the import is, that the subscriber will observe the Bible as the highest rule of faith and practice. In none of the established churches is the minister bound by articles, or by an official confession of faith, other than the oath, and in Neuchatel and Geneva even this is prohibited; in those states the responsibility for doctrine rests entirely upon the conscience of the minister. "The liberty of the conscience of the ecclesiastic is inviolable; it shall be restrained neither by regulations, nor by oaths, nor by engagements, nor by disciplinary punishments, nor by the articles of a creed, nor by any other measure whatever."[1] "Every pastor teaches and preaches freely upon his own responsibility; this liberty shall be restrained neither by confessions of faith nor by forms of liturgy."[2] In the free churches and self-supporting congregations of all denominations restrictions may be imposed upon the minister, or not, as may suit the convictions of the sect, but these do not come into a consideration of the constitutional aspect of church and state.

It would be impertinent to attempt to sum up in a few sentences the religious life of a numerous people of diversified nationalities and living under different forms of government. It must suffice to recall to mind that in the religious history of Switzerland we have to do with a country which on account of its moral earnestness has always been peculi-

[1] Neuchatel.

[2] Geneva, Constitution, Art. 123 as amended 1874.

arly favored by the Roman Papacy, and at the same time has given birth to two of the greatest movements of the Protestant Reformation. Among its citizens were enrolled two of the sublimest figures in the history of the church—Zwingli and Calvin.

CHAPTER XVIII.

Education.

The fundamental principles upon which the school systems of Switzerland are built are, that the rudiments of knowledge shall be freely given to every child, and that every child shall be compelled to receive them. "Primary education is compulsory, and in the public schools free," says the federal constitution,[1] and, following in its wake, say also, if not in word, in fact, the laws and constitutions of the cantons. Beyond this point there is no general law to which the states feel obliged to render obedience, hence secondary and higher education are carried on according to the ideas and desires of the various states independently, and a wide divergence is exhibited. Primary education is also interpreted differently in different states, the amount of training due to a child being considered in some cantons far greater than in others. Yet everywhere it is the law, that for a certain portion of the year the child must go to school, consequently schoolhouses and teachers must be provided, and the machinery of instruction kept in motion by the same power that made the law. It is this connection between government and education, rather than the pedagogical or moral result, that is intended to be brought out in this brief summary.

The local authorities for the management of schools were mentioned in connection with community government.[2] In every township are to be found one or more school districts in which the highest power is the *Schulgemeinde* or assembly

---

[1] Art. 27. See page 91, above.

[2] See page 168.

of voters belonging to that precinct. This assembly decides the larger questions of local school economy, and usually elects, for nearer management and oversight, a *Schulrath* or school-board, which varies in size in different states. This body is, almost without exception, independent of the political government of the community, for, even where originating as a committee of the regular town council, it manages separately the details of school business. The school council occupies a position very similar to the Boards of Education in the United States.

Except in two states[1] of small area, there stands above the local board an intermediate school authority for the district. In Zürich this consists of a body of representatives chosen from the town school committees and from the teaching force of the district. St. Gallen has a similar district board appointed by the state educational commission, but usually the district authority is an inspector, like the American county superintendent, or may consist of several co-ordinated supervisors whose collective duty is to see that instruction is given according to law and on a uniform plan.

State supervision of schools prevails throughout the confederation, but in widely different forms. In all of the cantons there are state boards chosen for fixed terms of office and given various denominations, but in some of the small democracies this body is elected by the people and is independent of any other executive authority, except, perhaps, so far as to render to the cabinet an annual report. In other states there is more or less organic connection; the cabinet will have a representative in the state board of education, or the executive authority will either have the final decision upon school matters, or be called upon to approve the action of the school council. In any event there is complete connection between the lowest units and the highest powers of state in educational affairs, and in a few cantons the state

[1] Appenzell Exterior and Zug.

associations of teachers and inspectors are assured a legal influence upon the management of the school system.

The burden of primary education is divided between the state and the community, but in different degrees. In about half of the cantons, most of which are predominantly agricultural states, the duty falls chiefly upon the community, but with assurance of state assistance. On the other hand, in Basel-city the state government is almost wholly responsible for the maintenance of schools, while in other places the canton may bear one-half or one-fourth of the expense. The average for the whole confederation is estimated at two-sevenths for the canton, against five-sevenths for the community. In most of the states, communities are obliged to maintain permanent funds, from the increase of which the schools are, so far as possible, to be supported. We may see here a reason for that cantonal inspection of local government mentioned before,[1] since the state is, above all things, interested in the education of its youth, and could not suffer the possible greed or short-sightedness of a town to deprive the children of proper school privileges, or throw more of the burden upon the general public. Several states also possess distinct cantonal educational funds. The total amount of school property in some of the cantons is large; in Zürich and Bern over twenty millions of francs each, in little Zug over one million, and according to population ranging from nine to seventy-six francs for each inhabitant.[2] The amount of money expended throughout the whole confederation, for primary education alone, in 1888 was over eighteen millions of francs, or about forty francs for each pupil.[3]

The period of obligatory attendance covers from six to nine years of the child's life, beginning at the age of six or seven,[4]

[1] See page 169.

[2] Figures for 1881. Volksw. Lex. III. 35.

[3] Grob. Jahrbuch, 1889, p. 160.

[4] The school year begins in nearly all states in the spring, not in the autumn as in America.

the gradations of instruction varying greatly according to the advancement of the educational system in the canton in question. Frequently the school program for all grades is the subject of elaborate state laws, and at least the minimum amount of instruction in the elements of knowledge is made uniform for the whole canton. The federal factory law regulates the employment of child-labor in establishments of a certain class, hence the states are assisted by that much in getting all children into the schools, up to the age of fifteen. The primary school leads up to higher grades which are supported by the state, but these may be classed as optional, so far as attendance is concerned. The first step is the *Fortbildungschule, Ecole complémentaire*, in which youth who have completed their obligatory schooling may continue studies for general culture, for special instruction needed in their future vocation, or to bring themselves up to the legal educational qualification for citizenship demanded by the annual examination of recruits. These schools are usually arranged to meet evenings or Sundays, so that persons in active business may get the benefit; their support coming in the first place from associations, unions, or societies, with assistance from the states; in the case of technical *Fortbildungschulen* also with assistance from the confederation, provided the state and community give at least twice as much. In some cantons attendance at such a school is made obligatory upon certain classes of scholars who have not properly obtained their primary education, or need to review for military examination.

More strictly in line with a progressive scheme of education are the secondary and so-called "middle schools," which take the scholar at the completion of the primary period[1] and carry him forward three to seven years longer. Like the high schools in the United States their object is two-fold: to prepare the youth for practical life, and for such as desire it, advancement to the universities and professional schools. In

[1] Usually about the age of twelve.

this class of institutions the state calls upon the parent to bear part of the burden of support. In two cantons[1] even these schools are free, but in all other states an annual tuition fee, ranging from twenty to fifty francs, must be paid. Private schools also exist through all these grades, but always subject to state inspection.

The test of educational advancement, however, and perhaps of social condition in general, in a given country, is the state of higher education and the amount of support given to universities and scientific research. In this respect Switzerland is not behind, for beside several advanced colleges and professional schools there are four fully equipped universities, situated at Zürich, Bern, Basel and Geneva. Each of these has the four faculties of theology, political science, medicine, and philosophy, and together they employ over three hundred instructors. It is not necessary to call attention to the reputation of the universities of Switzerland, for that is a matter of common knowledge. The point of interest in this connection, is the fact that they are supported by the treasury of the states in which they are located, and are the products of democratic government. They do not, it is true, rival the great institutions of Berlin and Vienna, but Zürich, for instance, stands second to few of the German universities, and is maintained by a state which contains less than three hundred and fifty thousand people within an area of less than seven hundred square miles. It has been alleged that only monarchical governments and princes are favorable to the highest development of education, science and the arts. It is true that in European history, monarchs, even despots, have been largely responsible for the great institutions of learning which have depended upon foundations for their support, but it will also be remembered that in the beginning universities were themselves democracies,[2] in which the

[1] Basel and Zürich.

[2] The title by which Uri was known in the charter of the original confederation was "Universitas vallis Uraniae." See Part III.

students were everything and lecturers nothing, as regards government and discipline. There was, in the days when professors as well as students were nomadic, no such thing as an "aristocracy of letters." It has been the custom in the United States to leave the support of higher education chiefly to private philanthropy and to the ambitions of religious sects. This has been due partly to utilitarian notions as to the objects of education, partly to the fear that state schools must be irreligious, and partly to the idea that it was undemocratic for the state to provide educational facilities in which all citizens could not participate. Philanthropy came nobly to the rescue, and governments have made excellent beginnings in behalf of higher education and research, but much waste of effort and division of forces might have been avoided had the people sooner realized that the quality of education in the whole state is determined by the quality of that at the top, and that the state is responsible for its excellence.

Of the democracies of Switzerland, which have thus set for themselves a high standard of instruction, Zürich is doubtless the best example, though the cities of Bern and Basel might not be willing to admit as much. Zürich expended in 1888 for all grades of schools over five millions of francs,[1] being an outlay of about fifteen francs for each inhabitant. Basel during the same time spent about twenty-four francs per inhabitant, but supports a university with only about one-fifth of the population of Zürich. In the rural cantons, such as Uri, Schwyz, Unterwalden and others, the sums expended are relatively small, amounting to three, four or six francs *per capita*, while in the industrial centres the expenditures will amount to ten, eleven or fourteen. When we consider that the Confederation also is a supporter of education,[2] art and science, the showing made by one small republic is decidedly noteworthy.

---

[1] Fr. 5,208,283. Grob. Jahrbuch, 1889, p. 161.

[2] See page 91, above.

PART III

SELECTIONS FROM THE

SOURCES OF SWISS CONSTITUTIONAL HISTORY

1291–1891

THE FIRST FEDERAL CONSTITUTION OF SWITZERLAND.

Perpetual League of the Forest Cantons, 1291.

In the name of God. Amen. 1. Honor and public welfare are enhanced when agreements are entered into for the proper establishment of quiet and peace. Therefore, know all men, that the people of the valley of Uri, the democracy of the valley of Switz, and the community of mountaineers of the lower valley,[1] in view of the evil of the time, in order that they may better defend themselves and their own, have promised in good faith to assist each other, with aid, counsel and every favor, with person and goods, within the valleys and without, with all power and endeavor against all and every, who may inflict upon any one of them any violence, molestation or injury, or may plot evil to their persons or goods. 2. And in every event, each people has promised to hasten to the aid of the other whenever necessary, and at their own expense, so far as needed, in order to resist attacks of evil-doers, and to avenge injuries. To which end they have taken oath in person to do this without deceit, and to renew by means of the present [agreement] the ancient oath-confirmed confederation.[2] 3. Yet in such a manner that every man, according to his rank, shall continue to yield proper obedience to his overlord.

---

[1] Nidwalden. Obwalden, the other part of Unterwalden, entered the confederation later.

[2] Upon this clause is based the hypothesis that a confederation existed previous to this time, perhaps as early as 1250. No earlier document, however, has been preserved, hence the charter of 1291 is called the First Perpetual League (*Der ewige Bund*).

4. By common agreement and by unanimous consent, we promise, enact and ordain that in the aforesaid valleys we will in nowise receive or accept any judge who has obtained his office for a price, or for money in any way whatever, nor one who is not a native or resident with us.

5. If dissension shall arise between any of the confederates, prudent men of the confederation shall come together to settle the dispute between the parties as shall seem right to them, and the party which rejects their judgment shall be an enemy to the other confederates.

6. Furthermore, it is established between them that whoever maliciously kills another without provocation shall, if captured, lose his life, as his nefarious crime demands, unless he can show his own innocence in the affair; and if he escapes, he shall never return. Concealers and defenders of the aforesaid malefactors shall be banished from the valleys, until they are expressly called back by the confederates.

7. If any one of the confederates, by day, or in the silence of the night, maliciously attempts to injure another by fire, he shall never be owned as a compatriot. 8. If any one protects or defends the aforesaid evil-doer, he shall render satisfaction to the person injured. 9. Further, if any one of the confederates robs another of his goods, or injures him in any way, the goods of the evil-doer, if found within the valleys, shall be seized in order that satisfaction may be given to the party damaged, according to justice. 10. Furthermore, no one shall seize another's goods for debt, unless he be manifestly his debtor or surety, and this shall only take place with the special permission of his judge. Moreover, every man shall obey his judge—and if necessary, himself ought to indicate the judge within [the valley] before whom he ought properly to appear. 11. And if any one rebels against a verdict, and if, in consequence of this pertinacity, any one of the confederates is injured, the whole body of confederates are bound to compel the contumacious party to give satisfaction.

12. If war or discord shall arise among any of the confederates, and one contending party refuses to accept proffered justice or satisfaction, the confederates are bound to assist the other party.

13. The regulations above written, established for the common welfare and utility, shall, the Lord willing, endure forever. In testimony of which, at the request of the aforesaid parties, the present instrument has been made and confirmed with the seals of the three democracies and valleys aforesaid.

Done in the year of the Lord M.CC.LXXXX. primo. at the beginning of the month of August.[1]

---

[1] Original in the archives of Schwyz. Published in *Eidgenössische Abschieden*, I. 242; Kopp, *Urkunden zur Geschichte der eidgenössischen Bünde*, 32; Bluntschli, *Bundesrecht*, II. 2. German translation in Oechsli, *Quellenbuch*, 50.

FEDERAL CONSTITUTION OF THE SWISS CONFEDERATION[1] (OF MAY 29, 1874).

IN THE NAME OF ALMIGHTY GOD.

The Swiss Confederation, desiring to confirm the alliance of the confederates, to maintain and to promote the unity, strength, and honor of the Swiss nation, has adopted the Federal Constitution following:

CHAPTER I. GENERAL PROVISIONS.

ARTICLE 1. The peoples of the twenty-two sovereign cantons of Switzerland, united by this present alliance, viz:

Zürich, Bern, Luzern, Uri, Schwyz, Unterwalden (Upper and Lower), Glarus, Zug, Freiburg, Solothurn, Basel (urban and rural), Schaffhausen, Appenzell (the two Rhodes), St. Gallen, Grisons, Aargau, Thurgau, Ticino, Vaud, Valais, Neuchatel, and Geneva, form in their entirety the Swiss Confederation.

ART. 2. The purpose of the confederation is, to secure the independence of the country against foreign nations, to maintain peace and order within, to protect the liberty and the rights of the confederates, and to foster their common welfare.

---

[1] "This translation of the constitution of Switzerland has been made from the parallel French and German texts by Albert Bushnell Hart, Assistant Professor of History in Harvard College. The copy or proofs of the translation have been submitted to Profs. S. M. Macvane and Adolphe Cohn of Harvard College, Prof. Bernard Moses of the University of California, Prof. Woodrow Wilson of Wesleyan University, Prof. R. Hudson of the University of Michigan, and Dr. J. M. Vincent, Librarian of the Department of History and Politics, Johns Hopkins University—from all of whom helpful suggestions have been received." Reprinted, by permission, from "Old South Leaflets," General Series, No. 18.

ART. 3. The cantons are sovereign, so far as their sovereignty is not limited by the federal constitution; and, as such, they exercise all the rights which are not delegated to the federal government.

ART. 4. All Swiss are equal before the law. In Switzerland there are neither political dependents nor privileges of place, birth, persons, or families.

ART. 5. The confederation guarantees to the cantons their territory, their sovereignty, within the limits fixed by Article 3, their constitutions, the liberty and rights of the people, the constitutional rights of citizens, and the rights and powers which the people have conferred on those in authority.

ART. 6. The cantons are bound to ask of the confederation the guaranty of their constitutions.

This guaranty is accorded, provided:

(*a*) That the constitutions contain nothing contrary to the provisions of the federal constitution.

(*b*) That they assure the exercise of political rights, according to republican forms, representative or democratic.

(*c*) That they have been ratified by the people, and may be amended whenever the majority of all the citizens demand it.

ART. 7. All separate alliances and all treaties of a political character between the cantons are forbidden.

On the other hand, the cantons have the right to make conventions among themselves upon legislative, administrative, or judicial subjects; in all cases they shall bring such conventions to the attention of the federal officials, who are authorized to prevent their execution if they contain anything contrary to the confederation or to the rights of other cantons. Should such not be the case, the covenanting cantons are authorized to require the co-operation of the federal officials in carrying out the convention.

ART. 8. The confederation has the sole right of declaring war, or making peace, and of concluding alliances and treaties with foreign powers, particularly treaties relating to tariffs and commerce.

ART. 9. By exception, the cantons preserve the right of concluding treaties with foreign powers respecting the administration of public property and border and police intercourse; but such treaties shall contain nothing contrary to the confederation or to the rights of other cantons.

ART. 10. Official intercourse between cantons and foreign governments, or their representatives, shall take place through the Federal Council.

Nevertheless, the cantons may correspond directly with the inferior officials and officers of a foreign state in regard to the subjects enumerated in the preceding article.

ART. 11. No military capitulations shall be made.

ART. 12. No members of the departments of the federal government, civil and military officials of the confederation, or federal representatives or commissioners, shall receive from any foreign government any pension, salary, title, gift, or decoration.

Such persons, already in possession of pensions, titles, or decorations, must renounce the enjoyment of pensions and the bearing of titles and decorations during their term of office.

Nevertheless, inferior officials may be authorized by the Federal Council to continue in the receipt of pensions.

No decoration or title conferred by a foreign government shall be borne in the federal army.

No officer, non-commissioned officer, or soldier shall accept such distinction.

ART. 13. The confederation has no right to keep up a standing army.

No canton or half-canton shall, without the permission of the federal government, keep up a standing force of more than three hundred men; the mounted police [*gendarmerie*] is not included in this number.

ART. 14. In case of differences arising between cantons, the states shall abstain from violence and from arming themselves; they shall submit to the decision to be taken upon such differences by the confederation.

ART. 15. In case of sudden danger of foreign attack, the authorities of the cantons threatened shall request the aid of other members of the confederation and shall immediately notify the federal government; the subsequent action of the latter shall not thereby be precluded. The cantons summoned are bound to give aid. The expenses shall be borne by the confederation.

ART. 16. In case of internal disturbance, or if the danger is threatened by another canton, the authorities of the canton threatened shall give immediate notice to the Federal Council, in order that that body may take the measures necessary, within the limits of its power (Art. 102, §§3, 10, 11), or may summon the Federal Assembly. In extreme cases the authorities of the canton are authorized, while giving immediate notice to the Federal Council, to ask the aid of other cantons, which are bound to afford such aid.

If the executive of the canton is unable to call for aid, the federal authority having the power may, and if the safety of Switzerland is endangered shall, intervene without requisition.

In case of federal intervention, the federal authorities shall take care that the provisions of Article 5 be observed.

The expenses shall be borne by the canton asking aid or occasioning federal intervention, except when the Federal Assembly otherwise decides on account of special circumstances.

ART. 17. In the cases mentioned in Articles 15 and 16, every canton is bound to afford undisturbed passage for the troops. The troops shall immediately be placed under federal command.

ART. 18. Every Swiss is bound to perform military service.

Soldiers who lose their lives or suffer permanent injury to their health in consequence of federal service, are entitled to aid from the confederation for themselves or their families, in case of need.

Each soldier shall receive without expense his first equipment, clothing, and arms. The weapon remains in the hands of the soldier, under conditions which shall be prescribed by federal legislation.

The confederation shall enact uniform provisions as to an exemption tax.

ART. 19. The federal army is composed:

(*a*) Of the cantonal military corps.

(*b*) Of all Swiss who do not belong to such military corps, but are nevertheless liable to military service.

The confederation exercises control over the army and the material of war provided by law.

In cases of danger, the confederation has also the exclusive and direct control of men not included in the federal army, and of all other military resources of the cantons.

The cantons have authority over the military forces of their territory, so far as this right is not limited by the federal constitution or laws.

ART. 20. The laws on the organization of the army are passed by the confederation. The enforcement of military laws in the cantons is intrusted to the cantonal officials, within limits which shall be fixed by federal legislation, and under the supervision of the confederation.

Military instruction of every kind pertains to the confederation. The same applies to the arming of troops.

The furnishing and maintenance of clothing and equipment is within the power of the cantons; but the cantons shall be credited with the expenses therefor, according to a regulation to be established by federal legislation.

ART. 21. So far as military reasons do not prevent, bodies of troops shall be formed out of the soldiers of the same cantons.

The composition of these bodies of troops, the maintenance of their effective strength, the appointment and promotion of officers of these bodies of troops, belong to the cantons, subject to general provisions which shall be established by the confederation.

ART. 22. On payment of a reasonable indemnity, the confederation has the right to use or acquire drill-grounds and buildings intended for military purposes, within the cantons, together with the appurtenances thereof.

The terms of the indemnity shall be settled by federal legislation.

ART. 23. The confederation may construct at its own expense, or may aid by subsidies, public works which concern Switzerland or a considerable part of the country.

For this purpose it may expropriate property, on payment of a reasonable indemnity. Further enactments upon this matter shall be made by federal legislation.

The Federal Assembly may forbid public works which endanger the military interests of the confederation.

ART. 24. The confederation has the right of superintendence over dike and forest police in the upper mountain regions.

It may co-operate in the straightening and embankment of torrents, as well as in the afforesting of the districts in which they rise. It may prescribe the regulations necessary to assure the maintenance of these works and the preservation of existing forests.

ART. 25. The confederation has power to make legislative enactments for the regulation of the right of fishing and hunting, particularly with a view to the preservation of the large game in the mountains, as well as for the protection of birds useful to agriculture and forestry.

ART. 26. Legislation upon the construction and operation of railroads is in the province of the confederation.

ART. 27. The confederation has the right to establish, besides the existing Polytechnic School, a federal university and other institutions of higher instruction, or to subsidize institutions of such nature.

The cantons provide for primary instruction, which shall be sufficient, and shall be placed exclusively under the direction of the secular authority. It is compulsory and, in the public schools, free.

The public schools shall be such that they may be frequented by the adherents of all religious sects, without any offense to their freedom of conscience or of belief.

The confederation shall take the necessary measures against such cantons as shall not fulfill these duties.

ART. 28. The customs are in the province of the confederation. It may levy export and import duties.

ART. 29. The collection of the federal customs shall be regulated according to the following principles:

1. Duties on imports:

(*a*) Materials necessary for the manufactures and agriculture of the country shall be taxed as low as possible.

(*b*) It shall be the same with the necessities of life.

(*c*) Luxuries shall be subjected to the highest duties.

Unless there are imperative reasons to the contrary, these principles shall be observed also in the conclusion of treaties of commerce with foreign powers.

2. The duties on exports shall also be as low as possible.

3. The customs legislation shall include suitable provisions for the continuance of commercial and market intercourse across the frontier.

The above provisions do not prevent the confederation from making temporary exceptional provisions, under extraordinary circumstances.

ART. 30. The proceeds of the customs belong to the confederation.

The indemnity ceases, which hitherto has been paid to the cantons for the redemption of customs, for road and bridge tolls, customs duties, and other like dues.

By exception, and on account of their international alpine roads, the cantons of Uri, Grisons, Ticino, and Valais receive an annual indemnity, which, considering all the circumstances, is fixed as follows:

Uri, 80,000 francs,
Grisons, 200,000 francs,
Ticino, 200,000 francs,
Valais, 50,000 francs.

The cantons of Uri and Ticino shall receive in addition, for clearing the snow from the Saint Gotthard road, an annual indemnity of 40,000 francs, so long as that road shall not be replaced by a railroad.

ART. 31. The freedom of trade and of industry is guaranteed throughout the whole extent of the confederation.

The following subjects are excepted:

(*a*) The salt and gunpowder monopoly, the federal customs, import duties on wines and other spirituous liquors, and other taxes on consumption expressly permitted by the confederation, according to Article 32.

(*b*) The manufacture and sale of alcohol, under Article 32 (ii). [Amendment of Dec. 22, 1885.]

(*c*) Drinking places, and the retail trade in spirituous liquors; but nevertheless the cantons may by legislation subject the business of keeping drinking places, and the retail trade in spirituous liquors, to such restrictions as are required for the public welfare. [Amendment of Dec. 22, 1885.]

(*d*) Measures of sanitary police against epidemics and cattle diseases.

(*e*) Provisions in regard to the exercise of trades and manufactures, in regard to taxes imposed thereon, and in regard to the police of the roads.

These provisions shall not contain anything contrary to the principle of freedom of trade and manufacture.

ART. 32. The cantons are authorized to collect the import duties on wines and other spirituous liquors, provided in Article 31 (*a*), always under the following restrictions:

(*a*) The collection of these import duties shall in nowise impede transportation: commerce shall be obstructed as little as possible, and shall not be burdened with any other dues.

(*b*) If the articles imported for consumption are re-exported from the canton, the duties paid on importation shall be refunded, without further charges.

(*c*) Products of Swiss origin shall be less burdened than those of foreign countries.

(*d*) The existing import duties on wines and other spirituous liquors of Swiss origin shall not be increased by the cantons which already levy them. Such duties shall not be established upon such articles by cantons which do not at present collect them.

(*e*) The laws and ordinances of the cantons on the collection of import duties shall, before their going into effect, be submitted to the federal government for approval, in order that it may, if necessary, cause the enforcement of the preceding provisions.

All the import duties now levied by the cantons, as well as the similar duties levied by the communes, shall cease, without indemnity, at the end of the year 1890.

ART. 32 (ii). [Amendment of Dec. 22, 1885.] The confederation is authorized by legislation to make regulations for the manufacture and sale of alcohol. In this legislation, those products which are intended for exportation, or which have been subjected to a process excluding them from use as a beverage, shall be subjected to no tax. Distillation of wine, fruit, and their by-products, of gentian root, juniper berries, and similar products, is not subject to federal legislation as to manufacture or tax.

After the cessation of the import duties on spirituous liquors, provided for in Article 32 of the constitution, the trade in liquors not distilled shall not be subjected by the cantons to any special taxes or to other limitations than those necessary for protection against adulterated or noxious beverages. Nevertheless, the powers of the cantons, defined in Article 31, are retained over the keeping of drinking places, and the sale at retail of quantities less than two litres.

The net proceeds resulting from taxation on the sale of alcohol belong to the cantons in which the tax is levied.

The net proceeds to the confederation from the internal manufacture of alcohol, and the corresponding addition to the duty on imported alcohol, are divided among all the cantons, in proportion to the actual population as ascertained

from time to time by the next preceding federal census. Out of the receipts therefrom the cantons must expend not less than one-tenth in combating drunkenness in its causes and effects.

ART. 33. The cantons may require proofs of competency from those who desire to practice a liberal profession.

Provision shall be made by federal legislation by which such persons may obtain certificates of competency, which shall be valid throughout the confederation.

ART. 34. The federation has power to enact uniform provisions as to the labor of children in factories, and as to the duration of labor fixed for adults therein, and as to the protection of workmen against the operation of unhealthy and dangerous manufactures.

The transactions of emigration agents and of organizations for insurance, not instituted by the state, are subject to federal supervision and legislation.

ART. 34 *bis*. [Amendment of Oct. 26, 1890.] The confederation will by law establish invalid and accident insurance, having regard for existing invalid funds. It may declare participation obligatory for all, or for special classes of the population.

ART. 35. The opening of gaming houses is forbidden. Those which now exist shall be closed Dec. 31, 1877.

The concessions which may have been granted or renewed since the beginning of the year 1871 are declared invalid.

The confederation may also take necessary measures concerning lotteries.

ART. 36. The posts and telegraphs in all Switzerland are controlled by the confederation.

The proceeds of the posts and telegraphs belong to the federal treasury.

The rates shall, for all parts of Switzerland, be fixed according to the same principle and as fairly as possible.

Inviolable secrecy of letters and telegrams is guaranteed.

ART. 37. The confederation exercises general oversight

over those roads and bridges in the maintenance of which it is interested.

The sums due to the cantons mentioned in Article 30, on account of their international alpine roads, shall be retained by the federal government if such roads are not kept by them in suitable condition.

ART. 38. The confederation exercises all the exclusive rights pertaining to coinage.

It has the sole right of coining money.

It establishes the monetary system, and may enact provisions, if necessary, for the rate of exchange of foreign coins.

ART. 39. The confederation has the power to make by law general provisions for the issue and redemption of bank notes.

But it shall not create any monopoly for the issue of bank notes, nor make such notes a legal tender.

ART. 40. The confederation fixes the standard of weights and measures.

The cantons, under the supervision of the confederation, enforce the laws relating thereto.

ART. 41. The manufacture and the sale of gunpowder throughout Switzerland pertains exclusively to the confederation.

Powders used for blasting and not suitable for shooting are not included in the monopoly.

ART. 42. The expenditures of the confederation are met as follows:

(*a*) Out of the income from federal property.

(*b*) Out of the proceeds of the federal customs levied at the Swiss frontier.

(*c*) Out of the proceeds of the posts and telegraphs.

(*d*) Out of the proceeds of the powder monopoly.

(*e*) Out of half of the gross receipts from the tax on military exemptions levied by the cantons.

(*f*) Out of the contributions of the cantons, which shall be determined by federal legislation with special reference to their wealth and taxable resources.

ART. 43. Every citizen of a canton is a Swiss citizen.

As such he may participate, in the place where he is domiciled, in all federal elections and popular votes, after having duly proven his qualification as a voter.

No person can exercise political rights in more than one canton.

The Swiss settled as a citizen outside his native canton enjoys, in the place where he is domiciled, all the rights of the citizens of the canton, including all the rights of the communal citizen. Participation in municipal and corporate property, and the right to vote upon purely municipal affairs, are excepted from such rights, unless the canton by legislation has otherwise provided.

In cantonal and communal affairs, he gains the right to vote after a residence of three months.

Cantonal laws relating to the right of Swiss citizens to settle outside the cantons in which they were born, and to vote on communal questions, are submitted for the approval of the Federal Council.

ART. 44. No canton shall expel from its territory one of its own citizens, nor deprive him of his rights, whether acquired by birth or settlement [*origine ou cité*].

Federal legislation shall fix the conditions upon which foreigners may be naturalized, as well as those upon which a Swiss may give up his citizenship in order to obtain naturalization in a foreign country.

ART. 45. Every Swiss citizen has the right to settle anywhere in Swiss territory, on condition of submitting a certificate of origin, or a similar document.

By exception, settlement may be *refused* to or *withdrawn* from those who, in consequence of a penal conviction, are not entitled to civil rights.

In addition, settlement may be *withdrawn* from those who have been repeatedly punished for serious offenses, and also from those who permanently come upon the charge of public charity, and to whom their commune or canton of origin, as

the case may be, refuses sufficient succor after they have been officially asked to grant it.

In the cantons where the poor are relieved in their place of residence, the permission to settle, if it relates to citizens of the canton, may be coupled with the condition that they shall be able to work, and that they shall not, in their former domicile in the canton of origin, have permanently become a charge on public charity.

Every expulsion on account of poverty must be approved by the government of the canton of domicile, and previously announced to the government of the canton of origin.

A canton in which a Swiss establishes his domicile may not require security, nor impose any special obligations for such establishment. In like manner the communes cannot require from Swiss domiciled in their territory other contributions than those which they require from their own subjects.

A federal law shall establish the maximum fee to be paid the chancery for a permit to settle.

ART. 46. Persons settled in Switzerland are, as a rule, subjected to the jurisdiction and legislation of their domicile, in all that pertains to their personal status and property rights.

The confederation shall by law make the provisions necessary for the application of this principle and for the prevention of double taxation of a citizen.

ART. 47. A federal law shall establish the distinction between settlement and temporary residence, and shall at the same time make the regulations to which Swiss temporary residents shall be subjected as to their political rights and their civil rights.

ART. 48. A federal law shall provide for the regulation of the expenses of the illness and burial of indigent persons amenable to one canton, who have fallen ill or died in another canton.

ART. 49. Freedom of conscience and belief is inviolable.

No person can be constrained to take part in a religious

society, to attend religious instruction, to perform a religious rite, or to incur penalties of any kind whatever on account of religious opinion.

The person who exercises the parent's or guardian's authority has the right, conformably to the principles above stated, to regulate the religious education of children up to the age of sixteen completed years.

The exercise of civil or political rights shall not be abridged by any provisions or conditions whatever of an ecclesiastical or religious kind.

No person shall, on account of a religious belief, release himself from the accomplishment of a civil duty.

No person is bound to pay taxes of which the proceeds are specifically appropriated to the actual expenses of the worship of a religious body to which he does not belong. The details of the carrying out of this principle are reserved for federal legislation.

ART. 50. The free exercise of religious worship is guaranteed within the limits compatible with public order and good morals.

The cantons and the confederation may take suitable measures for the preservation of public order and of peace between the members of different religious bodies, and also against encroachments of ecclesiastical authorities upon the rights of citizens and of the state.

Contests in public and private law, which arise out of the formation or the division of religious bodies, may be brought by appeal before the competent federal authorities.

No bishopric shall be created upon Swiss territory without the consent of the confederation.

ART. 51. The order of the Jesuits, and the societies affiliated with them, shall not be received into any part of Switzerland; and all action in church and school is forbidden to its members.

This prohibition may be extended also, by federal ordinance, to other religious orders, the action of which is dangerous to the state or disturbs the peace between sects.

ART. 52. The foundation of new convents or religious orders, and the re-establishment of those which have been suppressed, are forbidden.

ART. 53. The civil status and the keeping of records thereof is subject to the civil authority. The confederation shall by law enact detailed provisions upon this subject.

The control of places of burial is subject to the civil authority. It shall take care that every deceased person may be decently interred.

ART. 54. The right of marriage is placed under the protection of the confederation.

No limitation upon marriage shall be based upon sectarian grounds, nor upon the poverty of either of the contractants, nor on their conduct, nor on any other consideration of good order.

A marriage contracted in a canton or in a foreign country, conformably to the law which is there in force, shall be recognized as valid throughout the confederation.

By marriage the wife acquires the citizenship of her husband.

Children born before the marriage are made legitimate by the subsequent marriage of their parents.

No tax upon admission or similar tax shall be levied upon either party to a marriage.

ART. 55. The freedom of the press is guaranteed.

Nevertheless the cantons by law enact the measures necessary for the suppression of abuses. Such laws are submitted for the approval of the Federal Council.

The confederation may enact penalties for the suppression of press offenses directed against it or its authorities.

ART. 56. Citizens have the right of forming associations, provided that there be in the purpose of such associations, or in the means which they employ, nothing unlawful or dangerous to the state. The cantons by law take the measures necessary for the suppression of abuses.

ART. 57. The right of petition is guaranteed.

ART. 58. No person shall be deprived of his constitutional judge. Therefore no extraordinary tribunal shall be established.

Ecclesiastical jurisdiction is abolished.

ART. 59. Suits for personal claims against a solvent debtor having a domicile in Switzerland, must be brought before the judge of his domicile; in consequence, his property outside the canton in which he is domiciled may not be attached in suits for personal claims.

Nevertheless, with reference to foreigners, the provisions of international treaties shall not thereby be affected.

Imprisonment for debt is abolished.

ART. 60. All the cantons are bound to treat the citizens of the other confederated states like those of their own state in legislation and in all judicial proceedings.

ART. 61. Civil judgments definitely pronounced in any canton may be executed anywhere in Switzerland.

ART. 62. The exit duty on property [*traite foraine*] is abolished in the interior of Switzerland, as well as the right of redemption [*droit de retrait*] by citizens of one canton against those of other confederated states.

ART. 63. The exit duty on property is abolished as respects foreign countries, provided reciprocity be observed.

ART. 64. The confederation has power to make laws:

On legal competency.

On all legal questions relating to commerce and to transactions affecting chattels (law of commercial obligations, including commercial law and law of exchange).

On literary and artistic copyright.

On the protection of new patterns and forms, and of inventions which are represented in models and are capable of industrial application. [Amendment of Dec. 20, 1887.]

On the legal collection of debts and on bankruptcy.

The administration of justice remains with the cantons, save as affected by the powers of the Federal Court.

ART. 65. No death penalty shall be pronounced for a political crime. [Amendment of June 20, 1879.]

Corporal punishment is abolished.

ART. 66. The confederation by law fixes the limits within which a Swiss citizen may be deprived of his political rights.

ART. 67. The confederation by law provides for the extradition of accused persons from one canton to another; nevertheless, extradition shall not be made obligatory for political offenses and offenses of the press.

ART. 68. Measures are taken by federal law for the incorporation of persons without country (*Heimathlosen*), and for the prevention of new cases of that nature.

ART. 69. Legislation concerning measures of sanitary police against epidemic and cattle diseases, causing a common danger, is included in the powers of the confederation.

ART. 70. The confederation has power to expel from its territory foreigners who endanger the internal or external safety of Switzerland.

CHAPTER II. FEDERAL AUTHORITIES.

I. FEDERAL ASSEMBLY.

[*Assemblée fédérale; Bundesversammlung.*]

ART. 71. With the reservation of the rights of the people and of the cantons (Articles 89 and 121), the supreme authority of the confederation is exercised by the Federal Assembly, which consists of two sections or councils, to wit:

(A) The National Council.

(B) The Council of States.

A. NATIONAL COUNCIL.

[*Conseil National; Nationalrath.*]

ART. 72. The National Council is composed of representatives of the Swiss people, chosen in the ratio of one member for each 20,000 persons of the total population. Fractions of upwards of 10,000 persons are reckoned as 20,000.

Every canton, and in the divided cantons every half-canton, chooses at least one representative.

ART. 73. The elections for the National Council are direct. They are held in federal electoral districts, which in no case shall be formed out of parts of different cantons.

ART. 74. Every Swiss who has completed twenty years of age, and who in addition is not excluded from the rights of a voter by the legislation of the canton in which he is domiciled, has the right to vote in elections and popular votes.

Nevertheless, the confederation by law may establish uniform regulations for the exercise of such right.

ART. 75. Every lay Swiss citizen who has the right to vote is eligible for membership in the National Council.

ART. 76. The National Council is chosen for three years, and entirely renewed at each general election.

ART. 77. Representatives to the Council of States, members of the Federal Council, and officials appointed by that Council, shall not at the same time be members of the National Council.

ART. 78. The National Council chooses out of its own number, for each regular or extraordinary session, a President and a Vice-President.

A member who has held the office of President during a regular session is ineligible either as President or as Vice-President at the next regular session.

The same member may not be Vice-President during two consecutive regular sessions.

When the votes are equally divided the President has a casting vote; in elections he votes in the same manner as other members.

ART. 79. The members of the National Council receive a compensation out of the federal treasury.

B. COUNCIL OF STATES.

[*Conseil des Etats; Ständerath.*]

ART. 80. The Council of States consists of forty-four representatives of the cantons. Each canton appoints two

representatives; in the divided cantons, each half-state chooses one.

ART. 81. The members of the National Council and those of the Federal Council may not be representatives in the Council of States.

ART. 82. The Council of States chooses out of its own number for each regular or extraordinary session a President and a Vice-President.

Neither the President nor the Vice-President can be chosen from among the representatives of the canton from which the President has been chosen for the regular session next preceding.

Representatives of the same canton cannot occupy the position of Vice-President during two consecutive regular sessions.

When the votes are equally divided the President has a casting vote; in elections he votes in the same manner as the other members.

ART. 83. Representatives in the Council of States receive a compensation from the cantons.

C. POWERS OF THE FEDERAL ASSEMBLY.

ART. 84. The National Council and the Council of States consider all the subjects which the present constitution places within the competence of the confederation, and which are not assigned to any other federal authority.

ART. 85. The subjects within the competence of the two Councils are particularly the following:

1. Laws on the organization of and election of federal authorities.

2. Laws and ordinances on subjects which by the constitution are placed within the federal competence.

3. The salary and compensation of members of the federal governing bodies and of the Federal Chancery; the creation of federal offices and the determination of salaries therefor.

4. The election of the Federal Council, of the Federal Court, and of the Chancellor, and also of the commander-in-chief of the federal army.

The confederation may by law assign to the Federal Assembly other powers of election or confirmation.

5. Alliances and treaties with foreign powers, and also the approval of treaties made by the cantons between themselves or with foreign powers; nevertheless the treaties made by the cantons shall be brought before the Federal Assembly only in case the Federal Council or another canton protests.

6. Measures for external safety and also for the maintenance of the independence and neutrality of Switzerland; the declaration of war and the conclusion of peace.

7. The guaranty of the constitution and of the territory of the cantons; intervention in consequence of such guaranty; measures for the internal safety of Switzerland, for the maintenance of peace and order; amnesty and pardon.

8. Measures for the preservation of the constitution, for carrying out the guaranty of the cantonal constitutions, and for fulfilling federal obligations.

9. The power of controlling the federal army.

10. The determination of the annual budget, the audit of public accounts, and federal ordinances authorizing loans.

11. The superintendence of federal administration and of federal courts.

12. Protests against the decisions of the Federal Council upon administrative conflicts. (Art. 113.)

13. Conflicts of jurisdiction between federal authorities.

14. The amendment of the federal constitution.

ART. 86. The two councils assemble annually in regular session upon a day to be fixed by the standing orders.

They are convened in extra session by the Federal Council upon the request either of one-fourth of the members of the National Council, or of five cantons.

ART. 87. In either council a quorum is a majority of the total number of its members.

ART. 88. In the National Council and in the Council of States a majority of those voting is required.

ART. 89. Federal laws, enactments, and resolutions shall be passed only by the agreement of the two councils.

Federal laws shall be submitted for acceptance or rejection by the people, if the demand is made by 30,000 voters or by eight cantons. The same principle applies to federal resolutions which have a general application, and which are not of an urgent nature.

ART. 90. The confederation shall by law establish the forms and intervals to be observed in popular votes.

ART. 91. Members of either council vote without instructions.

ART. 92. Each council takes action separately. But in the case of the elections specified in Article 85, §4, of pardons, or of deciding a conflict of jurisdiction (Art. 85, §13), the two councils meet in joint session, under the direction of the President of the National Council, and a decision is made by the majority of the members of both councils present and voting.

ART. 93. Measures may originate in either council, and may be introduced by any of their members.

The cantons may by correspondence exercise the same right.

ART. 94. As a rule, the sittings of the councils are public.

II. FEDERAL COUNCIL.

[*Conseil fédéral ; Bundesrath.*]

ART. 95. The supreme direction and executive authority of the confederation is exercised by a Federal Council, composed of seven members.

ART. 96. The members of the Federal Council are chosen for three years by the councils in joint session from among all the Swiss citizens eligible to the National Council. But not more than one member of the Federal Council shall be chosen from the same canton.

The Federal Council is chosen anew after each election of the National Council.

Vacancies which occur in the course of the three years are filled at the first ensuing session of the Federal Assembly, for the remainder of the term of office.

ART. 97. The members of the Federal Council shall not, during their term of office, occupy any other office, either in the service of the confederation or in a canton, or follow any other pursuit, or exercise a profession.

ART. 98. The Federal Council is presided over by the President of the confederation. There is a Vice-President.

The President of the confederation and the Vice-President of the Federal Council are chosen for one year by the Federal Assembly from among the members of the council.

The retiring President shall not be chosen as President or Vice-President for the year ensuing.

The same member shall not hold the office of Vice-President during two consecutive years.

ART. 99. The President of the confederation and the other members of the Federal Council receive an annual salary from the federal treasury.

ART. 100. A quorum of the Federal Council consists of four members.

ART. 101. The members of the Federal Council have the right to speak but not to vote in either house of the Federal Assembly, and also the right to make motions on the subject under consideration.

ART. 102. The powers and the duties of the Federal Council, within the limits of this constitution, are particularly the following:

1. It conducts federal affairs, conformably to the laws and resolutions of the confederation.

2. It takes care that the constitution, federal laws and ordinances, and also the provisions of federal concordats, be observed; upon its own initiative or upon complaint, it takes measures necessary to cause these instruments to be observed,

unless the consideration of redress be among the subjects which should be brought before the Federal Court, according to Article 113.

3. It takes care that the guaranty of the cantonal constitutions be observed.

4. It introduces bills or resolutions into the Federal Assembly, and gives its opinion upon the proposals submitted to it by the councils or the cantons.

5. It executes the laws and resolutions of the confederation and the judgments of the Federal Court, and also the compromises or decisions in arbitration upon disputes between cantons.

6. It makes those appointments which are not assigned to the Federal Assembly, Federal Court, or other authority.

7. It examines the treaties made by cantons with each other, or with foreign powers, and approves them, if proper. (Art. 85, §5.)

8. It watches over the external interests of the confederation, particularly the maintenance of its international relations, and is, in general, intrusted with foreign relations.

9. It watches over the external safety of Switzerland, over the maintenance of independence and neutrality.

10. It watches over the internal safety of the confederation, over the maintenance of peace and order.

11. In cases of urgency, and when the Federal Assembly is not in session, the Federal Council has power to raise the necessary troops and to employ them, with the reservation that it shall immediately summon the councils if the number of troops exceeds two thousand men, or if they remain in arms more than three weeks.

12. It administers the military establishment of the confederation, and all other branches of administration committed to the confederation.

13. It examines such laws and ordinances of the cantons as must be submitted for its approval; it exercises supervision over such departments of the cantonal administration as are placed under its control.

14. It administers the finances of the confederation, introduces the budget, and submits accounts of receipts and expenses.

15. It supervises the conduct of all the officials and employes of the federal administration.

16. It submits to the Federal Assembly at each regular session an account of its administration and a report of the condition of the confederation, internal as well as external, and calls attention to the measures which it deems desirable for the promotion of the general welfare.

It also makes special reports when the Federal Assembly or either council requires it.

ART. 103. The business of the Federal Council is distributed by departments among its members. This distribution has the purpose only of facilitating the examination and despatch of business; decisions emanate from the Federal Council as a single authority.

ART. 104. The Federal Council and its departments have power to call in experts on special subjects.

III. FEDERAL CHANCERY.

[*Chancellerie fédérale; Bundeskanzlei.*]

ART. 105. A federal chancery, at the head of which is placed the chancellor of the confederation, conducts the secretary's business for the Federal Assembly and the Federal Council.

The chancellor is chosen by the Federal Assembly for the term of three years, at the same time as the Federal Council.

The chancery is under the special supervision of the Federal Council.

A federal law shall provide for the organization of the chancery.

IV. FEDERAL COURT.

[*Tribunal fédéral; Bundesgericht.*]

ART. 106. There shall be a federal court for the administration of justice in federal concerns.

There shall be, moreover, a jury for criminal cases. (Art. 112.)

ART. 107. The members and alternates of the federal court shall be chosen by the Federal Assembly, which shall take care that all three national languages are represented therein.

A law shall establish the organization of the federal court and of its sections, the number of judges and alternates, their term of office, and their salary.

ART. 108. Any Swiss citizen eligible to the National Council may be chosen to the federal court.

The members of the Federal Assembly and of the Federal Council, and officials appointed by those authorities, shall not at the same time belong to the federal court.

The members of the federal court shall not, during their term of office, occupy any other office, either in the service of the confederation or in a canton, nor engage in any other pursuit, nor practice a profession.

ART. 109. The federal court organizes its own chancery and appoints the officials thereof.

ART. 110. The federal court has jurisdiction in civil suits:

1. Between the confederation and the cantons.

2. Between the confederation on one part and corporations or individuals on the other part, when such corporations or individuals are plaintiffs, and when the amount involved is of a degree of importance to be determined by federal legislation.

3. Between cantons.

4. Between cantons on one part and corporations or individuals on the other part, when one of the parties demands it,

and the amount involved is of a degree of importance to be determined by federal legislation.

In further has jurisdiction in suits concerning the status of persons not subjects of any government (*heimathlosat*), and the conflicts which arise between communes of different cantons respecting the right of local citizenship. [*Droit de cité.*]

ART. 111. The federal court is bound to give judgment in other cases when both parties agree to abide by its decision, and when the amount involved is of a degree of importance to be determined by federal legislation.

ART. 112. The federal court, assisted by a jury to decide upon questions of fact, has criminal jurisdiction in:

1. Cases of high treason against the confederation, of rebellion or violence against federal authorities.

2. Crimes and misdemeanors against the law of nations.

3. Political crimes and misdemeanors which are the cause or the result of disturbances which occasion armed federal intervention.

4. Cases against officials appointed by a federal authority, where such authority relegates them to the federal court.

ART. 113. The federal court further has jurisdiction:

1. Over conflicts of jurisdiction between federal authorities on one part and cantonal authorities on the other part.

2. Disputes between cantons, when such disputes are upon questions of public law.

3. Complaints of violation of the constitutional rights of citizens, and complaints of individuals for the violation of concordats or treaties.

Conflicts of administrative jurisdiction are reserved, and are to be settled in a manner prescribed by federal legislation.

In all the fore-mentioned cases the federal court shall apply the laws passed by the Federal Assembly and those resolutions of the Assembly which have a general import. It shall in like manner conform to treaties which shall have been ratified by the Federal Assembly.

ART. 114. Besides the cases specified in Articles 110,

112 and 113, the confederation may by law place other matters within the jurisdiction of the federal court; in particular, it may give to that court powers intended to insure the uniform application of the laws provided for in Article 64.

V. MISCELLANEOUS PROVISIONS.

ART. 115. All that relates to the location of the authorities of the confederation is a subject for federal legislation.

ART. 116. The three principal languages spoken in Switzerland, German, French, and Italian, are national languages of the confederation.

ART. 117. The officials of the confederation are responsible for their conduct in office. A federal law shall enforce this responsibility.

CHAPTER III. AMENDMENT OF THE FEDERAL CONSTITUTION.

ART. 118. The federal constitution may at any time be amended.

ART. 119. Amendment is secured through the forms required for passing federal laws.

ART. 120. When either council of the Federal Assembly passes a resolution for amendment of the federal constitution and the other council does not agree; or when fifty thousand Swiss voters demand amendment, the question whether the federal constitution ought to be amended is, in either case, submitted to a vote of the Swiss people, voting yes or no.

If in either case the majority of the Swiss citizens who vote pronounce in the affirmative, there shall be a new election of both councils for the purpose of preparing amendments.

ART. 121. The amended federal constitution shall be in force when it has been adopted by the majority of Swiss citizens who take part in the vote thereon and by a majority of the states.

In making up a majority of the states, the vote of a half-canton is counted as half a vote.

The result of the popular vote in each canton is considered to be the vote of the state.

Temporary Provisions.

Article 1. The proceeds of the posts and customs shall be divided upon the present basis, until such time as the confederation shall take upon itself the military expenses up to this time borne by the cantons.

Federal legislation shall provide, besides, that the loss which may be occasioned to the finances of certain cantons by the sum of the charges which result from Articles 20, 30, 36 (§2), and 42 (*e*), shall fall upon such cantons only gradually, and shall not attain its full effect till after a transition period of some years.

Those cantons which, at the going into effect of Article 20 of the constitution, have not fulfilled the military obligations which are imposed upon them by the former constitution, or by federal laws, shall be bound to carry them out at their own expense.

Art. 2. The provisions of the federal laws and of the cantonal concordats, constitutions or cantonal laws, which are contrary to this constitution, cease to have effect by the adoption of the constitution or the publication of the laws for which it provides.

Art. 3. The new provisions relating to the organization and jurisdiction of the Federal Court take effect only after the publication of federal laws thereon.

Art. 4. A delay of five years is allowed to cantons for the establishment of free instruction in primary public education. (Art. 27.)

Art. 5. Those persons who practice a liberal profession, and who, before the publication of the federal law provided for in Article 33, have obtained a certificate of competence from a canton or a joint authority representing several cantons, may pursue that profession throughout the confederation.

ART. 6. [Amendment of Dec. 22, 1885.]

If a federal law for carrying out Article 32 (ii.) be passed before the end of 1890, the import duties levied on spirituous liquors by the cantons and communes, according to Article 32, cease on the going into effect of such law.

If, in such case, the shares of any canton or commune, out of the sums to be divided, are not sufficient to equal the average annual net proceeds of the taxes they have levied on spirituous liquors in the years 1880 to 1884 inclusive, the cantons and communes affected shall, till the end of 1890, receive the amount of the deficiency out of the amount which is to be divided among the other cantons according to population; and the remainder only shall be divided among such other cantons and communes, according to population.

The confederation shall further provide by law that for such cantons or communes as may suffer financial loss through the effect of this amendment, such loss shall not come upon them immediately in its full extent, but gradually up to the year 1895. The indemnities thereby made necessary shall be previously taken out of the net proceeds designated in Article 32 (ii.), paragraph 4.

Thus resolved by the National Council to be submitted to the popular vote of the Swiss people and of the cantons.

Bern, January 31, 1874. ZIEGLER, *President.*
SCHIESS, *Secretary.*

Thus resolved by the Council of States, to be submitted to the popular vote of the Swiss people and of the cantons.

Bern, January 31, 1874. A. KOPP, *President.*
J. L. LUTSCHER, *Secretary.*

THE ALCOHOL MONOPOLY.

Bundesgesetz betreffend das gebrannte Wasser.[1]
Vom 23. *Dezember* 1886.

ARTICLE 1. The right to manufacture and import liquors, the manufacture of which is hereby placed under federal control, shall belong exclusively to the confederation. Liquors delivered by the confederation to be used for drinking shall be sufficiently rectified and inspected. As for the supply covered through the domestic production, the confederation transfers to local authorities and trade the necessary delivery, as per Article 2.

ART. 2. Nearly one-quarter of the consumption of liquors shall be provided by contracts of delivery, which the confederation will conclude with domestic producers. The deliveries are to be published for acceptance by the Federal Council, in lots of not less than 150 hectoliters and not exceeding 1000 hectoliters of pure alcohol. Each lot will be assigned to the party presenting the required guarantee and making the best offer for the lot. In determining the offers submitted, the distillation of domestic raw material and distillation by agricultural associations are to be preferred. No bidder will receive more than one lot.

ART. 3. The importation of superior liquors may be permitted to private persons under conditions fixed by the Federal Council, and for a fixed monopoly fee of 80 francs per liter one hundred gross and the import duty, regardless of the degree of alcohol.[2]

---

[1] The great importance of this law from the sociological standpoint seemed to warrant the insertion of the full text.

[2] By subsequent enactment a graded scale for imports has been established, varying according to the amount of pure alcohol contained in the liquor.

either in the manufacture of spirituous liquors without authority, or fails to deliver to the confederation the entire quantity he may at any time manufacture under the authority granted him, or procures an unjust return of customs duties, as provided in Article 5, or uses the raw spirits under Article 6 for other than the specified purposes, or procures spirituous liquors in an illegal manner, shall be subject to a fine from five to thirty times the value of the amount so improperly obtained. If this cannot be ascertained the fine will be from 200 to 10,000 francs. In case of a repetition of the offense or under aggravating circumstances, the fine may be doubled and an imprisonment of six months added. The attempt to violate or evade the provisions of the law shall be subject to the same penalties.

ART. 15. In addition to the cases referred to in Article 14, each violation of the law or the regulations relating to its enforcement shall be subject to a fine from 20 to 500 francs; this fine will be increased to 50 or 1000 francs where resistance is offered to the execution of the law, under limitations of Article 47 of the federal penal code.

ART. 16. One-third of the fines realized under the law shall go to the informer, one-third to the canton, and one-third to the commune in which the offense was committed. If there be no informer, then two-thirds goes to the canton where the offense has been committed. When discovered by the officers or the employés of the customs administration, the fines will be apportioned under Article 57 of the canton law of August 27, 1851.

ART. 17. Proceedings in all cases for violation of the law or the provisions for its carrying out shall be had in conformity with the federal law of 30th June, 1849, for violation of fiscal and revenue laws.

ART. 18. The proprietors of existing distilleries shall be indemnified by the confederation for the depreciation in the value of their property caused by the enactment of this law. In reaching this depreciation the profits in the business shall

not be taken into account. The claim to indemnity is limited to distilleries established previous to 1885 and in operation at that time, and the proprietors of which renounce and surrender the authority granted under Article 32 *bis* of the Federal Constitution. Where an agreed indemnity is found impracticable, it must be referred to a commission of estimates. These commissions of estimates or values shall be composed of three members, one to be appointed by the Federal Tribunal, one by the Federal Council, and the third by the cantonal government in which the property is located. Against the decision of the commission there will lie an appeal by either party to the Federal Tribunal, within thirty days after the rendering of the same. If not done within this time the opinion of the commission will be final. The procedure, both of the commission and the Federal Tribunal, shall be by a special regulation of the Federal Tribunal based on the law of May, 1850, concerning the condemnation of private property.

ART. 19. The confederation has the right to acquire the stock of monopoly spirituous liquors in the country, after the law goes into effect, amounting to over one-half hectoliter, with indemnity, where the owner is unwilling to pay the required taxes. If the confederation sees proper to enforce its right of acquisition, the proprietors must give notice of their stock; any concealment of same will involve complication and penalty under Article 14. The price to be paid for liquors so appropriated by the confederation will be fixed by experts appointed by the Federal Council.

ART. 20. The Federal Council is charged with the full execution of this law.

ART. 21. The Federal Council is charged, in conforming with the provisions of the federal law of June 17, 1874, to promulgate this law and fix the date when it shall go into effect.[1]

[1] With exception of a few necessary changes this translation follows that published in U. S. Consular Reports, No. 81, 1887.

LITERATURE OF SWISS CONSTITUTIONAL HISTORY.

Selected References.

General Histories. The history of Switzerland has long been made a subject of inquiry by native and foreign investigators, but especially during the last century has there been most careful collection of materials and diligent research into the hidden recesses of state and federal chronicles. Another volume such as this would scarcely contain the titles of the books, monographs and essays which have been written about Switzerland; hence it is not the intention of this article to give a complete bibliography of even the subject of constitutional history, but simply to point the way to a few of the more important and accessible sources of information.

The authority upon Swiss history, who ranked as a classic during the first half of this century, was Johann von Müller.[1] His work was not only a thorough history, in the light of the knowledge of his time, but, on account of its charming literary style, was an ornament to German literature. After Müller's death the work was taken up by Robert Glutz-Blozheim and J. J. Hottinger and continued through seven or eight volumes. They were followed by two authors from French Switzerland, Vulliemin and Monnard, who translated the work of their predecessors and carried the narrative down to the Helvetic Republic, making, in all, in some editions, a collection of sixteen volumes.[2] But since the day of these

[1] v. Müller, Johann. Geschichte der schweizerischen Eidgenossenschaft. Fortgesetzt von Robert Glutz-Blozheim und J. J. Hottinger. 7 Bde.

[2] Vulliemin, L. et Ch. Monnard. Histoire de la Confédération Suisse. 16 Toms. 1841-47.

authors the state of historical science has greatly changed. New materials and new views have been coming to light, and the opinions of the early classics can no longer be accepted on many important questions, particularly in respect to the origins of the confederation. A closer study of documents began to show that the popular ideas of the early condition of the Swiss and of the formation of the republic were largely mythical, and that William Tell could not be found in the records.

Among the first to set himself against overwhelming public opinion was Professor Kopp, who published, in 1835, a small collection of charters, showing the precise documentary progress of Swiss independence during the early struggle.[1] He afterwards began a history of the confederation and occupied many years in its continuation, but in his anxiety to show the exact status of the republic, the work became in reality a history of the German empire, and, as such, is filled with an appalling mass of details, without much regard to the perspective of either German or Swiss history.[2] A clear and brief statement of the results of modern research into the subject of the struggle for independence will be found in the book of Rilliet, of which there is also a German translation.[3]

If it is desired to take up the later period of Swiss history in considerable detail, one may consult the works of Tillier.[4] He has treated in succession the period of the Helvetic Re-

---

[1] Kopp, J. E. Geschichte der eidgenössischen Bünde. 11 Bücher. Leipzig u. Berlin, 1845–82.

[2] Kopp, J. E. Urkunden zur Geschichte der eidgenössischen Bünde. 1 vol. 1835.

[3] Rilliet, A. Les Origines de la Confédération Suisse. Genève, 1868.

[4] v. Tillier, A. Geschichte der Helvetischen Republik, 1798–1803. 3 Bde. Bern, 1843.

—— Geschichte der Eidgenossenschaft während der Herrschaft der Vermittlungsakte. 2 Bde. Zürich, 1845–46.

—— Geschichte der Eidgenossenschaft, 1814–30. 3 Bde. Zürich, 1848–50.

—— Geschichte der Eidgenossenschaft, 1830–48. 3 Bde. Bern, 1854–55.

public, the rule of Napoleon, the period of reaction 1814–1830, and the period of renaissance to 1848. Better for the period of the Pact of 1815, showing the governmental notions which prevailed at the time, is a recent volume by Van Muyden.[1]

But by far the best general history for ordinary use is the recent work of Dändliker,[2] who has covered the entire period of Swiss history from the time of the Lake Dwellers to the year 1885. This is not only a narrative of the political and territorial growth of the country, but particular attention has also been given to constitutional advancement and to the progress of civilization in general. For each chapter there are exhaustive notes in the appendix, showing carefully the sources of information upon each period and topic. The same author has published a convenient tabular view of Swiss history.[3] Another recent history, and equally well done, so far as it has progressed, is the work of Dierauer, in which the first chapter treats of "Roman culture" in Switzerland, and the last chapter of the first volume reaches the year 1415.[4] The short history of Arx and Strickler is good for rapid review.[5] The best brief work for English readers is that of Hug and Stead, published as one of the "Stories of the Nations."[6]

Von Muralt's *Schweizergeschichte*[7] is a brief chronological arrangement of the known facts and events, with complete citation of references as the narrative proceeds, after the

---

[1] Van Muyden, B. La Suisse sous le Pacte de 1815. (1815 à 1830.) 1 Tom. Lausanne, Paris, 1890.

[2] Dändliker, K. Geschichte der Schweiz. 3 Bde. Zürich, 1885–87.

[3] Uebersichtstafeln zur Schweizergeschichte. 40 Seiten. Zürich, 1890.

[4] Dierauer, J. Geschichte der schweizerischen Eidgenossenschaft. Bd. I. Gotha, 1887.

[5] v. Arx, F., und J. Strickler. Illustrirte Schweizergeschichte für Schule und Haus. Zürich, 1887.

[6] Hug and Stead. Switzerland. (Story of the Nations Series.) 1 vol. D. New York, 1889.

[7] v. Muralt, C. Schweizergeschichte mit durchgängiger Quellenangabe. 1 Bd. Bern, 1885.

manner of the German "Year Books." It is indispensable to the writer of Swiss history as far as the fourteeeth century. Gisi's *Quellenbuch* gives all quotations from the ancient writers who touch upon Switzerland previous to 69 A. D.[1] Oechsli's *Quellenbuch*[2] is a collection of representative documents, illustrating the political and constitutional history of the country down to modern times; translated into German. It is intended for use in school or college work, to bring students in contact with the original sources. It includes extracts from chronicles, treaties, poets and constitutions.

Constitutional History. There have been many histories of individual states written, and of these quite a number are valuable to the constitutional student. Two of these only have been selected as especially helpful. Blumer's history of the Swiss Democracies[3] is a very careful study of the six cantons of Uri, Schwyz, Unterwalden, Glarus, Zug, and Appenzell. It exhibits the early condition of land ownership, the original legal and political jurisdictions, and the history of private and public law to the year 1798. It throws much light upon the questions in dispute at the time of the formation of the republic. Bluntschli's Constitutional History of Zürich[4] is equally good, and, like the other, of more than local interest, for it is the history of a typical development of Teutonic institutions from the early Alamannic beginnings into a modern state. Bluntschli's Constitutional History of the Confederation[5] covers both the first

[1] Gisi, W. Quellenbuch zur Schweizergeschichte. Bd. I. Bern, 1869.

[2] Oechsli, W. Quellenbuch zur Schweizergeschichte. I Bd. Zürich, 1886.

[3] Blumer, J. J. Staats- und Rechtsgeschichte der schweizerischen Demokratien. 2 Bde. St. Gallen, 1850–58.

[4] Bluntschli, J. C. Staats- und Rechtsgeschichte der Stadt und Landschaft Zürich. Zweite Auflage. Zürich, 1856.

[5] Bluntschli, J. C. Geschichte des schweizerischen Bundesrechts von den ersten ewigen Bünden bis auf die Gegenwart. 2 Bde. Zürich, 1849–1852. Bd. I, zweite Auflage. Stuttgart, 1875.

and present constitutions, and is still the best authority on the subject. For a shorter account of the whole subject the introduction to Blumer's Constitutional Law[1] is very satisfactory. The work itself is an exhaustive study of the federal government, reinforced by the decisions of the higher courts. It is the best work to be had, but more convenient is Dubs' Public Law,[2] which is written for a more popular audience. Better still, because including both federal and cantonal institutions, is the work of Orelli.[3]

Kaiser often has a crisp way of saying things somewhat in contradiction to Bluntschli and others.[4] For historical views of the states and confederation before 1848, one may read Cherbuliez[5] and Snell.[6] The latter gives texts of laws and constitutions. For the federal constitution alone, the work of Prof. Moses[7] is more scientifically written than that of Adams and Cunningham.[8] The former is interesting for its comparisons with South American republics, but the latter is perhaps more useful because of its treatment of cantonal affairs. The French translation is an improvement upon the original.[9] Marsauche[10] is the latest in the field and contrib-

[1] Blumer, J. J. Handbuch des schweizerischen Bundesstaatsrechts. 2 Bde. Schaffhausen, 1863–65.

[2] Dubs, J. Das öffentliche Recht der schweizerischen Eidgenossenschaft. 2 Bde. Zürich, 1877–78.

[3] v. Orelli, A. Das Staatsrecht der schweizerischen Eidgenossenschaft. (Marquardsen's Handbuch des öffentlichen Rechts. Bd. 4.) Freiburg i. Br., 1885.

[4] Kaiser, S. Schweizerisches Staatsrecht, in drei Büchern dargestellt. St. Gallen, 1858–60.

[5] Cherbuliez, A. De la démocratie en Suisse. 2 Toms. Genève et Paris, 1843.

[6] Snell, Ludwig. Handbuch des schweizerischen Staatsrechts. 2 Bde. Zürich, 1837–1845.

[7] Moses, B. The Federal Government of Switzerland. 1 vol. Oakland, Cal., 1889.

[8] Adams, F. O., and C. D. Cunningham. The Swiss Confederation. 1 vol. London, 1889.

[9] —— La Confédération Suisse. Edition française avec notes et additions par H. G. Loumyer. 1 Tom. Bâle, Genève et Lyon, 1890.

[10] Marsauche, L. La Confédération Hélvetique. 1 vol. Neuchatel, 1890.

utes a useful chapter on the social problems of Switzerland. Strickler's new pamphlet[1] gives a very succinct account of federal constitutional history. Droz' *Instruction Civique*[2] is a manual of public law, using Swiss institutions for illustrative examples, and is valuable. Hart's Introduction to the Study of Federal Government[3] devotes considerable space to Switzerland. This book is most useful as a basis for wider study, as it points the way through the subject by brief historical sketches, comparisons of constitutions, and bibliographical notes. Vincent's Study in Swiss History[4] is an attempt to show the origin and continuity of the peculiar state-rights ideas of Switzerland. Valuable comparisons will be found in Bourinot,[5] Freeman[6] and May.[7] A recent work on Geneva may be cited as a typical constitutional history of a Romance canton.[8]

Special Questions. For keeping in touch with the operations of Swiss institutions, the Political Year Books edited by Professor Hilty, of Bern, are exceedingly helpful.[9] They contain, beside monographs on various historical topics, annual summaries of political movements both in the confed-

---

[1] Strickler, J. Schweizerisches Verfassungsbüchlein. 167 Seiten Br. Bern, 1890.

[2] Droz, Numa. Instruction Civique. Suivi d'un Exposé des Institutions du Canton de Genève, par A. Gavard. 1 Tom. Lausanne, 1885.

[3] Hart, A. B. Introduction to the Study of Federal Government. (Harvard Historical Monographs.)

[4] Vincent, J. M. A Study in Swiss History. Papers of American Historical Association, vol. 3, pp. 146–164. (1887.)

[5] Bourinot, J. G. Canadian Studies in Comparative Politics. 1 vol. Montreal, 1890.

[6] Freeman, E. A. The Federal Constitution of Switzerland. Fortnightly Review, Vol. 2, pp. 533–548.

—— Presidential Government. National Review, Nov. 1864. Historical Essays, Series I., p. 373.

[7] May, T. E. Democracy in Europe. I. 333–403.

[8] Fazy. Les Constitutions de la République de Genève. Genève et Bâle, 1890.

[9] Hilty, C. Politisches Jahrbuch der schweizerischen Eidgenossenschaft, 1886–90. 5 Bde. Bern.

eration and the states, and are written, not in a perfunctory, but in a critical and judicial spirit. Hilty's essay on the international relations of Switzerland is also admirable.[1] Stoll explains the durability of citizenship.[2] Ruttiman's essay on the origin of citizenship[3] is old, but authoritative. Martin has recently written upon the federal laws on civil status.[4] Borel[5] and Zeerleder[6] comment upon the federal bankruptcy law. Schollenberger has gathered into compact form all the private liberties which the citizen may enjoy under the protection of state and nation.[7] Vogt has illustrated the state-rights problem in his pamphlet on the Ticino question.[8]

Among books on cantonal subjects, Curti's history of popular lawmaking will be read with interest.[9] It is the story of the rise and development of the Referendum. He has also a shorter essay on the same subject.[10] The present condition of this institution is treated from the legal and philosophical standpoint by Keller. His *Volksinitiativrecht*[11] is as clear a statement of the actual laws on the sub-

---

[1] Hilty, C. Die Neutralität der Schweiz in ihrer heutigen Auffassung.

[2] Stoll, M. Der Verlust des Schweizerbürgerrechts. Br. Zürich, 1888.

[3] Ruttiman. Ueber die Geschichte des schweizerischen Gemeindebürgerrechts. Br. Zürich, 1862.

[4] Martin, Alfred. Étude des Lois Fédérales sur la Responsabilité Civile. Genève, 1890.

[5] Borel, Eug. Das Bundesgesetz über Schuldbetreibung und Konkurs. Br. Neuchatel, 1889.

[6] Zeerleder. Das Bundesgesetz über Schuldbetreibung und Konkurs. Br. Bern, 1889.

[7] Schollenberger, J. Die schweizerischen Freiheitsrechte. 81 Seiten. Zürich, 1888.

—— Die schweizerischen Handels- und Gewerbeordnungen. 95 Seiten. Zürich, 1889.

[8] Vogt, G. Zur Tessiner-Frage. Br. Zürich, 1889.

[9] Curti, T. Geschichte der schweizerischen Volksgesetzgebung. 1 Bd. Zürich, 1885.

[10] —— Die Volksabstimmung in der schweizerischen Gesetzgebung. Br. Zürich, 1886.

[11] Keller, A. Das Volksinitiativrecht nach den schweizerischen Kantonsverfassungen. Br. Zürich, 1889.

ject as can be found. The best descriptions of the Landesgemeinde are to be found in Rambert's Studies.[1] Unlike most writers, he has visited all the existing folk-motes, and writes about them and other Swiss institutions in a genial as well as discriminating manner. Taxation in Switzerland has been most exhaustively treated by Georg Schanz.[2] His first volume contains a historical account of the development of taxation from the beginning of the nineteenth century to the present. The other four volumes contain the laws of all the states on the subject, not only the existing statutes, but the measures which led up to them. It is a monument of industry, and invaluable to the economist. Huber's Private Law is a comparative study, in which he gives under each topic the principles followed in the various states or regions of the confederation.[3]

Laws and Official Publications. Collections of documents which are especially useful for constitutional study of the past are the reports of the old Federal Diets.[4] It was the custom at the close of each session to prepare a paper embodying the action and recommendations of the assembly upon the subjects brought before it. This was for the instruction of the state governments who sent delegates, and, as its name indicates, was the last word of the convention, a "letter of departure." The first series includes all known federal agreements between 1245 and 1798. Another series covers the period of the modern Diet, 1803 to 1848,[5] while the papers of the Helvetic period are in process of collection and publication.

---

[1] Rambert, Eugene. Études historiques et nationales. Lausanne, 1889.

[2] Schanz, Georg. Die Steuern der Schweiz in ihrer Entwickelung seit Beginn des 19. Jahrhunderts. 5 Bde. Stuttgart, 1890.

[3] Huber, Eug. System und Geschichte des schweizerischen Privatrechts. 3 Bde. Basel, 1886–89.

[4] Amtliche Sammlung der älteren eidgenössischen Abschiede (1245–1798). 8 Bde.

[5] Repertorium der Abschiede der eidgenössischen Tagsatzungen v. Jahr 1803 bis 1848. 3 Bde.

The present federal and state constitutions are published in an official collection.[1] Several cantons, however, have made revisions since the edition of 1880. An excellent commentary on the federal constitution will be found in the records of the convention which formulated it in 1874.[2] The Federal Statutes have entered upon a third series since 1849.[3] A very convenient collection in three volumes is that of Wolf, which shows the revisions to date, and gains compactness by omitting preambles and signatures.[4] Carl Stoss has assembled the various criminal laws of the country under topics for comparison.[5] The complete decisions of the Federal Supreme Court have been published since 1874, but Ullmer's digest covers the period 1848–1863.[6]

The principal federal documents needed are the reports of the Federal Council[7] on the conduct of business, the Financial Reports,[8] and the Official Gazette.[9] The latter is the organ through which laws and ordinances are announced weekly. Parliamentary practice is regulated by a printed code of rules, found in the statutes in a separate edition.[10] The financial

---

[1] Sammlung der Bundesverfassung und Kantonsverfassungen. Amtliche Ausgabe. 1 Bd. 1880.

[2] Protokolle über Bundesrevision. 1873–4. 1 Bd. Q.

[3] Amtliche Sammlung der Bundesgesetze und Verordnungen. 1849–1874. 11 Bde.

—— Neue Folge. 1874–1889.

—— Neue Folge, Zweite Serie (seit dem Jahre 1889).

[4] Die schweizerischen Bundesgesetzgebung. Herausgegeben und mit Anmerkungen versehen, von P. Wolf. 3 Bde. Basel, 1890–91.

[5] Stoss, Carl. Die schweizerischen Strafgesetzbücher, zur Vergleichung zusammengestellt.

[6] Entscheidungen des schweizerischen Bundesgerichtes. Amtliche Sammlung. 1875–1889. 15 Bde.

Ullmer, R. E. Die staatsrechtliche Praxis der schweizerischen Bundesbehörden. 2 Bde. Also translated into French by Borel, 1867.

[7] Bericht des schweizerischen Bundesrathes an die Bundesversammlung. (Annual.)

[8] Die eidgenössische Staats-Rechnung. (Annual.)

[9] Schweizerisches Bundesblatt. (Feuille Fédéral Suisse.) (Weekly.)

[10] Geschäftsregelmentarische Bestimmungen für den eidgenössischen Rathe.

history is graphically displayed in a tabular view which includes the years 1853–1884.[1] U. S. Consular Reports, Nos. 81, 90, 99–100, contain matters especially interesting to financial methods employed in Switzerland.[2] Other numbers frequently report upon the industrial situation. Grob's Jahrbuch is the central authority upon educational matters.[3] As a single specimen from the many local government laws, that of Zürich may be especially recommended.[4]

Statistics. The statistics of population are found best in the federal census.[5] This is confined chiefly to civil status; commercial and other statistics being published in special reports[6] which are issued from time to time by the Statistical Bureau of the Interior Department. From the same source comes also a quarterly journal of statistics.[7]

Wirth's general description of Switzerland, although published in 1875, contains much of permanent value.[8] It is divided into parts, which describe successively the natural features of the country, the people, commerce, insurance, justice, constitutions and laws, education. Many changes have taken place in constitutions since this was published. The best statistical work now is Furrer's Lexicon.[9] One may

[1] Uebersicht der Einnahmen und Ausgaben der Eidgenossenschaft. 1853–1884.

[2] U. S. Consular Reports, Nos. 81, 90, 99–100. Wash. State Dept.

[3] Grob, C. Jahrbuch des Unterrichtswesens in der Schweiz. 9 Bde. Zürich, 1881–1889.

[4] Kanton Zürich. Gesetz betreffend das Gemeindewesen, vom 27 Juni, 1875. Br. Zürich, 1889.

[5] Die eidgenössische Volkszählung, 1880, 1888. (Published by the Federal Government.)

[6] Schweizerische Statistik. Herausgegeben von dem Statistischen Bureau d. Eidgen. Department des Innern. 1–65 Lieferungen, 1862–1886.

[7] Zeitschrift für schweizerische Statistik. Herausgegeben von der Central Kommission der schweiz. statist. Gesellschaft, unter Mitwirkung des eidg. statist. Bureau. (Quarterly.) Bern.

[8] Wirth, Max. Allgemeine Beschreibung und Statistik der Schweiz. 3 Bde. Zürich, 1871–75.

[9] Furrer, A. Volkswirthschafts-Lexikon der Schweiz. 3 Bde. Bern, 1885–91.

also consult the Statesman's Year-Book and the Encyclopædia Britannica.

Topography. The best map of Switzerland is that known sometimes as the Siegfried Atlas, which is published on the scale of the original measurements, namely 1 : 25,000 for flat land and 1 : 50,000 for mountains. When complete this will consist of over 500 sheets.[1] Smaller than this is the map made under the direction of General Dufour, in twenty-five sheets, which, in its day, was also the federal ordnance map.[2] An excellent wall-map, because of the distinctness with which the physical features of the country are thrown up, is a late one of Ziegler.[3] W. A. B. Coolidge has written a history and bibliography of Swiss travel, especially of mountain exploration.[4] There are numerous other small maps and guide-books.

Bibliography. To find out everything that has been written upon Swiss history, one should begin with Haller.[5] His work was continued by Meyer von Knonau[6] in magazine reports, and in book-form by Sinner[7] as far as 1851. Later, Von Mulinen wrote an introduction to the whole subject of Swiss bibliography.[8] Since 1871 a monthly record of

---

[1] Topographischer Atlas der Schweiz, im Massstab der Original-Aufnamen. Herausgegeben v. Eidg. Stabsbureau.

[2] Dufour. Topographische Karte d. Schweiz. 1 : 100,000. Complet in 25 Blättern.

[3] Ziegler. Zweite Wandkarte der Schweiz, in 8 Blätter. J. Würster & Co. Zürich.

[4] Coolidge, W. A. B. Swiss Travel and Swiss Guide-Books. 1 vol. London, 1889.

[5] v. Haller, G. C. Bibliothek d. schweiz. Geschichte und aller Theile so dahin Bezug haben. 6 Bde. Bern, 1875–88.

[6] Meyer von Knonau, G. Fortsetzung von Haller's Bib. in Archiv für schweiz. Gesch., 1840–45.

[7] v. Sinner, G. Bibliographie der Schweiz. Geschichte, 1786–1851. Bern, 1851.

[8] v. Mulinen. Prodromus einer schweiz. Historiographie. Bern, 1874.

all publications has appeared in *Bibliographie Suisse,*[1] to which an annual index is furnished. Switzerland is also represented in the Historical Year-Book, published under the auspices of the Historical Society of Berlin.[2] Annual reports on the historical and political literature will be found in Hilty's *Jahrbuch*[3] and in the *Anzeiger für schweizerische Geschichte.*[4]

---

[1] Bibliographie und Literarische Chronik der Schweiz. 1870–1891. Basel. H. Georg. (8 fr. per year in Postal Union.)

[2] Jahresbericht der Geschichtswissenschaft. Berlin. J. Jastrow (editor). 1878–1888.

[3] See Special Questions, above.

[4] Anzeiger für schweizerische Geschichte. Herausg. von der Allgem. geschichtsforschenden Gesellschaft der Schweiz. Bern.

STATISTICS OF SWITZERLAND.

CANTONS.	Area in Square Miles.	Population 1888.	Population per Sq. Mile.	Members in Federal House of Reps. 1890.	Canton Capital.	Lawmaking Power.	Expenditure Requiring Popular Vote. Francs.	State Income, 1888-9, in 1000 Francs.	State Expenditure, 1888-9, in 1000 Francs.	Expenditure per Capita. Francs.	State Debts, 1888-9, in 1000 Francs.	Value of State Property, 1888-9, in 1000 Francs.	Taxable Capital per Capita. Francs.
Zürich	665	337,183	507	17	Zürich.	Oblig. Ref.	250,000	11,201	11,185	33	30,183	60,608	2,255
Bern	2,660	536,679	201	27	Bern.	" "	500,000	21,480	21,449	40	64,221	113,368	2,673
Luzern	580	135,360	233	7	Luzern.	Option. Ref.	200,000	1,700	1,676	12.3	5,110	10,167	1,807
Uri	415	17,249	41	1	Altorf.	Landesgemeinde.	.....	448	439	25.4	1,006	292	2,456
Schwyz	351	50,307	143	3	Schwyz.	Oblig. Ref.	50,000	382	374	7.4	1,344	.....	1,586
Unterwalden-Ob...	295	15,041	94	1	Sarnen.	Landgesgemeinde	.....	145	137	9.1	99	501	2,600
Unterwalden-Nid..		12,538		1	Stanz.	"	.....	circ. 150	150	9.2	.....	.....	2,152
Glarus	267	33,825	126	2	Glarus.	"	.....	774	796	23.5	6,486	6,276	3,273
Zug	92	23,029	250	1	Zug.	Option. Ref.	40,000	276	265	11.5	.....	388	2,454
Freiburg	644	119,155	185	6	Freiburg.	Legislature.	.....	3,171	3,151	26.4	22,842	34,129	2,787
Solothurn	303	85,621	282	4	Solothurn.	Oblig. Ref.	100,000	1,794	1,782	20.8	10,011	11,064	?
Basel-stadt	177	73,749	766	4	Basel.	Option. Ref.	.....	5,968	5,952	80	59,900	13,500	8,135
Basel-land		61,941		3	Liestal.	Oblig. Ref.	.....	728	719	11.6	.....	2,045	1,985
Schaffhausen	116	37,783	325	2	Schaffhausen.	Option. Ref.	.....	1,185	1,052	27.8	1,252	2,712	4,022
Appenzell-Ausser..	162	54,109	413	3	Herisau. Trogen.	Landesgemeinde.	.....	468	551	10	.....	800	1,703
Appenzell-Inner...		12,888		1	Appenzell.	"	.....	152	108	8.4	219	33	2,490
St. Gallen	780	228,160	292	11	St. Gallen.	Option. Ref.	.....	2,959	2,767	12	24,093	31,930	1,419
Graubünden	2,774	94,810	34	5	Chur.	Oblig. Ref.	100,000	1,776	1,776	18.4	7,316	9,926	2,171
Aargau	542	193,580	357	10	Aarau.	" "	250,000	2,725	2,694	14	3,151	27,875	3,172
Thurgau	382	104,678	274	5	Frauenfeld.	" "	50,000	1,833	1,820	17.3	2,525	8,137	1,804
Ticino	1,095	126,751	115	6	Bellinzona.	Option. Ref.	.....	2,056	2,056	16	6,500	3,000	1,196
Vaud	1,245	247,655	198	12	Lausanne.	" "	1,000,000	6,830	6,500	26	12,091	18,652	5,176
Valais	2,026	101,985	50	5	Sion.	Oblig. (Finance).	60,000	1,246	1,175	11.5	6,779	10,598	1,832
Neuchâtel	312	108,153	346	5	Neuchâtel.	Option. Ref.	500,000	2,846	2,893	26.5	15,842	19,415	3,715
Genève	109	105,509	967	5	Genève.	" "	.....	5,344	5,879	55	30,440	17,000	6,483
Total	15,892	2,917,740	Av. 183	147				77,637	77,346	26.4	277,410	402,416	

INDEX.

Aargau, acquisition of, 18; executive council of, 133; constitution of, 136; salt monopoly, 147.
Act of Mediation, 22, 175.
Adams, H. B., viii.
Adolph of Nassau, elected king and renewed privileges of Frederic II., 8.
Alamanni, settlement of, 3, 4.
Alcohol monopoly, 76, 83, 201, 202, 222; text of law, 223; in Basel, 149.
Amendment of constitutions. See Constitution.
Amtsstatthalter, 136.
Appenzell joins League of Thirteen, 17; Landesgemeinde, 113; legislature, 116; village court, 140; religion, 176.
Arbitration in the three cantons of the League, 7.
Area of cantons, 240.
Army, 33, 62; history of, 62; state and federal authority over, 63; organization, 64, 198; pensions, 65; military tax, 74, 153; expense, 81; education of recruits, 92; no standing troops, 196.
Assembly, popular, in early times, 6; and democracies, 106.
Assembly, the right of, 208.
Asylums, established for the inebriate, and for feeble-minded children, by Zürich, under law concerning government alcohol monopoly, 81.
Attorney-General, federal, 60.
Austria, house of Habsburg became imperial administrators of Swiss districts, 6; contention about local rights of Swiss, 7, 8, 9; revolt of Glarus against, 10, 11.

Balance of power, held by Switzerland, 67.
Ball, W. D., viii.
Bank notes, no monopoly, 76, 203.
Bankruptcy, 85, 209; treatises, 234.
Banks, state, 151.
Basel, bishopric, ally of League, 17; partition of, 27; popular legislation, 106; Justice of the Peace, 140; salt monopoly, 147; liquor monopoly, 149; state expenditures, 156; religion, 176; education, 184, 186.
Beiwagen, 112.
Berlin, university, 186.
Bern, joins confederation, 10; under Helvetic Republic, 21; Act of Mediation, 23; government of, 115; public funds, 146; state railways, 150; religion, 176; education, 184, 186.
Bezirksrath, district council, 136.
Bezirksammann, president of district, 136.
Bezirksstatthalter, vice-president of district, 136.
Bibliography of Swiss history, 237.
Biel, 17.
Bishoprics, 94, 207.
Bluntschli, J. C., viii; Swiss history, 230.
Bridges and highways, federal care of, 89.
Bundesgericht, 58.
Bundeskanzlei. See Federal Chancellor.
Bundesrath, 52.
Bundesversammlung. See Federal Assembly.
Bureau of National Council, 39, 43.
Bureaucracy, 144.
Burg, the beginning of the fortified city, 159.
Burgundians, 3.
Burial of paupers, 206.

Calvin, 181.

Cantons, boundaries of, fixed by federal government, 33; cannot make political alliance with each other, 35; in strife with each other must not take up arms, 36; interstate laws by treaty, 50; disputes, 58; and federal government in military regulations, 63, 64; military tax, 74; contributions from, to federal government, 75; retain salt monopoly, 83; free trade among the, 83; former management of posts by, 85; and the right of citizens to form associations, 99; the confederation guarantees laws, 101; state legislation, 105; democratic and representative, 106; legislatures of, 115; the state supreme court, 121; the Grand Council, 119; the Council of State, 120; Referendum and initiative, 122; state executive and judiciary, 132; capital cities, 239; judges of court elected by district, 138; courts, 141; constitutions, revision of, 142; federal guaranty, 195; state and local finance, 145; state fire insurance, 151; community and citizenship, 157; beginnings of the state, 159; state and local government, 170; state inspection of local government, 171; church and state, 173; use of armed force, 196. See also State Sovereignty.
Capital, the federal, 220.
Capital, taxable *per capita*, 239.
Capital punishment, 100, 209.
Capitals of cantons, 239.
Catholics, during *Sonderbund* war, 27.
Centgraf, 4, 5.
Chancellor. See Federal.
Charlemagne, 4.
Children, and the folk-mote at Glarus, 110.
Church and state, 98, 173; mediæval poor relief, 161.
Cities, origin of; the burg, the beginning of the fortified city, 159.
Citizen, rights of the. See Popular Rights.
Citizenship, 157, 205, 234.
Civil registration, 98, 208.
Civil war of 1847, 175.
Coal, 149.
Coinage, 88, 204.
Commerce, freedom of, 100.
Commercial laws, and the confederation, 83; uniformity of, 84.
Communal Council, 168.
Community, and citizenship, 157; organization of the, 166; administration, 168.
Concordats, 25; list of, 50, 51; validity, 221.
Confederation, Swiss, the starting-point of, 7, 31; joined by Lucern, 9; joined by Zürich, Glarus, Zug and Bern, 10, 11; admission of Geneva, Valais, Neuchatel, 24; extent, 30; relation to cantons, vii, 30, 32; relation to the common welfare, 83; relation to the individual, 97; education, 187.
Congress of Vienna, 167.
Conseil des Etats. See Council of States.
Conseil Fédéral. See Council, Federal.
Conseil National. See Council, National.
Constance, Council of, 18.
Constitution, League of Thirteen, 17; of 1832 rejected, 27; of 1848, 28, 35, 91, 93; federal, revision of, 49; of 1874, 28, 49, 58, 91, 93; of 1874, in regard to army, 63; text of first federal, 191; text of present, 194–232.
Constitutions, state, compared with federal, 33; revision of, 125, 126, 142; compared with U. S., 127; collection of texts, 236.
Constitutional history, works on, 227, 230.
Contracts, federal law, 84.
Copyright, 84, 209.
Corporal punishment, 209.
Council, the cantonal, and state legislature, 115; Grand, in state legislation, 119; of State, 121.
Council of State, 138, 171.
Council of states, formed on American plan, 39; members, how elected, 40; committees in, 43; rules of, 44, 211.
Council. See National, Federal, etc.
Courts. See Judiciary.
Criminal laws, 235.

Criminal Court. See Judiciary.
Customs duties, sources of federal revenue, 72, 201; cantonal, 201.

Death penalty, 209.
Debt, federal, 82; collection of debts and bankruptcy law, 85; imprisonment for, 100; state, public, 240.
Democracies and republics, 106.
Democracy and higher education, 186.
Democratic principles, in judicial institutions, 142; in state and district government, 138, 139.
Diet, 18, 19; under Act of Mediation, 23; under Pact of 1815, 24; refuses to hinder constitutional reform, 26; constructs new constitution 1847, 28; published acts, 234.
District administration, 136.
District Court. See Judiciary.
Domains, state, 146.

Ecclesiastical jurisdiction, 209.
École complémentaire, 185.
Economic questions, bring political changes, 25.
Education, federal aid, 90, 199, 221; general principles, 182, 184; local authorities, 182; district supervision, 183; state supervision, 183; school funds, 184; expenditures, 184, 187; compulsory, 184; supplementary, 185; secondary, 185; higher universities, 186.
Elections, of members of National Council, 38; federal constitutional convention, 49.
Emigration agencies, federal control, 203.
England, constitution of, same origin as that of Switzerland, 4; parliament, compared with Swiss legislatures, 118.
Epidemic diseases, 84.
Eschenthal, subjugation of, 18.
European powers, control of, 23.
Evangelical church, 177.
Executive Council, Helvetic, 21; state, 119, 123, 132.
Executive, federal. See Federal Council.
Expenditures. See Finance.
Extradition, interstate, 210.

Factory legislation, 84, 95.
Federal Assembly, composed of two chambers, 38; functions of, 40; conduct of business, 41; Federal Chancellor, elected by, 44; refers bills after passing to Federal Council, 46–49; superior to Federal Court, 61; duties, 210, 211.
Federal Chancellor, 44, 45, 217.
Federal constitution. See Constitution.
Federal Council, called upon in case of insurrection in cantons, 35; receives bills passed by both houses of Federal Assembly, 46; orders popular vote (on bills) on petition of 30,000 citizens, 47; like American cabinet, 39; sends lists of matters of business to Federal Assembly, 41; members can speak in either branch of Assembly, 42; bills referred back from Assembly, 43; consists of seven members, 52; its powers and duties, 53, 54; compared with cabinet of United States, 55; responsibility of members and tenure of office, 56, 57, 214; compared with Council of State, 135.
Federal intervention, 197.
Federal legislation, 38.
Federal Supreme Court, origin of, 19. See also Judiciary.
Feudal system in Switzerland, 4, 5.
Finances of confederation, administered by Federal Council, 54; beginning of federal finance in present century, 70; sources of revenue, 71; customs, 72; posts and telegraph, 73; military tax, 74; contributions from cantons, 75; alcohol monopoly, 76; expenses, 81, 82; management, 204, 221; in state legislatures, 119; sources of state revenue, 146; state and local, 145, 222, 240.
Fishing privileges, 150, 199.
Folk-mote. See *Landesgemeinde*.
Foreign affairs, under the supervision of Federal Council, 53.
Foreign powers, no presents to be received from by any officers of government or army, 68.
Foreigners, expulsion, 69, 210.
Forest cantons, under Act of Mediation, 22.

Forestry of the Alps, protected by federal law, 90, 199.
Fortbildungsschule, 185.
France, controls Switzerland, 23.
Franks, form of government, 4.
Free trade between cantons, 201.
French language, proportion of population speaking, 31.
French Revolution, reflected in Switzerland, 21; effects effaced in 1815, 24; effect of July revolution, 25.
Frederic II., 6.
Freiburg, 106, 120.
Freischaren, 28.
Frey, Emile, *Bundesrath*, viii.

Gaming houses prohibited, 85, 203.
Gau, Alamannic, 4.
Gemeinde-President, or Mayor, 137.
Geneva, ally of League, 17; admitted to confederation, 24; Justice of the Peace in, 140; railroads, 150; religions, 176, 180; education, 186.
Germanic influence, 31.
Germanic laws, 3.
Gersau, democracy of, 108.
Gipsies, 162.
Glarus, joined the confederation, 10, 11; form of *Landesgemeinde*, 108; royalties from mines, 149.
Government, federal and state, 33; federal made more effective by "referendum," 46–49; federal and state rights in military affairs, 63; popular, 115; compared with United States, 127; district, 136.
Graf, 4, 5.
Grand Council, 119.
Grand Jury, 141.
Graubünden, ally of League, 17; origin of "referendum," 122; taxation, 153.
Guide-books, bibliography of, 238.

Habsburg, Counts of, became imperial administrators of Swiss districts, 6; Rudolf, 7; Albert, 7, 8.
Hart, A. B., 194.
Heimathlosen, 210, 219.
Helvetians, 3.
Helvetic Republic, 21, 23.
Henry VII. confirmed privileges, 8.
Histories of Switzerland, general, 227; constitutional, 230.
Hofgericht, 107.
Hundred, Alamannic, 4.
Hunting privileges, 199.

Initiative and Referendum, 123, 240.
Insurance, compulsory invalid and accident, 95, 203; inspection of companies, 203; state fire insurance, 151.
Insurrection, within a state, 35; power to raise troops in case of, rests with Federal Assembly and Federal Council, 53; incitement to, 99.
International agreements, Switzerland headquarters of, 69.
International relations, 67.
Intervention, federal, 197.
Italian language, proportion of population speaking, 31.

Jesuits, activity of, 27; forbidden to locate in the country, 94, 207.
Judiciary, federal, number of members and term of office, 58; jurisdiction, 59; conduct of business, division of courts, 60; limited by Federal Assembly, 61; functions, 218, 221; published decisions, 236.
Judiciary, state, 121, 132; judges, 138; relation to Federal Supreme Court, 139; Justice of the Peace, 140; district court, 140; criminal courts, 140, 141.
Jury, and Grand Jury, 141.
Jus non evocando, 8.

Kantonsgericht. See Judiciary.
Kelts, 1.
Kopp, J. E., 229.

Labor laws, 203.
Landammann of Switzerland, 23.
Landammann, 110, 134.
Landesgemeinde, under Act of Mediation, 22; origin of, 106; in Schwyz, 137.
Landfrieden, 175.
Language, difference in, 30, 31; official, 220.
Landrath, 119.
Latin civilization, 3.
Laws, criminal, 236; federal, 236; private, 235.

League, the first perpetual, 7, 107; renewal of, 9.
League of Eight, 11, 12.
League of Thirteen, 19, 108.
Legislation, federal, 38, 46.
Legislature, federal, and popular veto, 32, 46.
Legislature of Helvetic Republic, 21.
Legislatures, state, 115; relation to Executive Council, 135, 143.
Leopold of Austria, 9.
Liberty, of religious belief, 92, 98, 173; of press, 99; commercial and industrial, 100; of opinion to legislators, 41, 116.
Liquor monopoly. See Monopoly.
Literature of Swiss constitutional history, 227.
Local administration, Helvetic Republic, 21; state inspection, 138, 171; finance, 145; community, 158.
Local independence, vitality of, 29; and federal government, 32–37, 46–49.
Lotteries, 85, 203.
Louis of Bavaria, 9.
Luzern, purchase of by Rudolf of Habsburg, 7; joined the confederation, 9; reactionary policy 1846, 27; legislature, 120; public service, 144.

Maps, 238.
Maritime rights, 68.
Mark, 5, 146.
Markgenossenschaft, 5, 157, 165.
Marriage, registry of, 95; right of, under confederation, 98; federal protection of, 208.
Mayors of towns, 137, 167.
Mediation, Act of, 21.
Merovingian Empire, 4.
Migration of Germanic tribes, effect on Switzerland, 1.
Military capitulation with Bonaparte, 23; prohibited, 196.
Military service, 197.
Monasteries, feudal position, 4, 5, 8; inviolability, 175.
Monopolies, 146.
Morgarten, battle of, 9.
v. Müller, Johann, histories, 227.

Napoleon I., gives constitution to Switzerland, 22; effect of his fall, 23.
National Council, its members how chosen, 38; bureau of, 39; functions, 210; members from each canton, 239.
Nationalrath. See National Council.
Naturalization, 98, 205.
Neuchatel, 17; admitted to confederation, 24; state railroads, 150; religion, 176, 180.
Neutrality, the policy of Switzerland, 67.
Nidwalden, *Landesgemeinde*, 111; the legislature, 116.

Oath of office, 144.
Oberamtmänner, 136.
Obwalden, number of delegates to legislature, 116.

Pact of 1815, 24.
Papacy, 181.
Paris, treaty of 1856, and Swiss neutrality, 68.
Parish meeting, the, 166, 167, 179.
Pastors, both state and church officials, 179; liberty of opinion, 179, 180.
Patents, 76, 84, 209.
Patrician families, supremacy of, 20.
Pensions, 65, 196, 197.
Personal rights, 97, 195, 209.
Petition, imperative, 123.
Petition, right of, 208.
Pfaffenbrief, 12.
Pippin abolishes dukedoms, 4.
Popular rights, in early times, 5; protection of, 7; put down by bailiffs of Albert of Habsburg, 8; all made equal, 9; right of veto in Federal Legislature, 32; popular vote upon laws passed by Federal Legislature, 46; rights of the citizen in the confederation, 97; the folk-mote, 106; and popular government, 115.
Popular vote, in electing judges, 140; element in judicial proceedings, 141; rights and judicial tribunal, 43.
Popular vote. See also Vote.
Political institutions, origin Germanic, 3.
Political questions, literature on, 233.
Political rights, deprivation, 210.
Polytechnic, 91, 199.
Population, 239.

Postal Union, Universal, 69.
Posts and telegraph, as sources of federal revenue, 73, 85, 203.
Powder monopoly, 73, 83, 204.
Powers. See European.
Prefects of districts, 136.
Presents, from foreign powers cannot be received by officers of government or soldiers of army, 68, 196.
President, of the confederation, 52; of Council of State, 134; of village council, 168.
Press, liberty of the, 99, 208.
Private law, Huber's work on, 235.
Profession, exercise of, 203, 221.
Property, state, 146, 240.
Protestant Church, 173, 177.
Protestants, during *Sonderbund* wars, 27.
Public debts, 82.
Public service, 143.
Public works, federal assistance in construction of, 90, 199.
Punishment of crime, 100; capital, 100.

Races, influence of different, 31.
Railways, federal laws regulating, 87; state, 150, 199.
Red Cross, Order of, 69.
Referendum, 46–49, 105; obligatory and optional, 106, 115, 119, 120; and initiative, 122; in America, 126; Curti, history, 234; Keller's law of, 233.
Religious liberty, under Pact of 1815, 25; present conditions, 92, 98, 173, 206.
Religious orders, new, forbidden, 94, 208.
Reformation, 19; the folk-mote after the, 108; effects of, in church and state, 173.
Regierungsrath, 119, 133.
Relatives, official disqualifications, 143.
Republic, the Helvetic, 21.
Republics and democracies, 106.
Responsibility, official, 144, 220.
Revenue. See Finance.
Roads and bridges, federal care of, 89, 200.
Roman Church, government and the, 173.
Romance ideas, influence of, 31.
Rousseau's ideal democratic government fulfilled in Swiss Imperative Petition.
Royalties, state revenues, 146.

St. Gallen, 17; origin of Referendum, 122; education, 183.
Salaries of officials, 144, 169.
Salt, monopoly, 83, 147.
Sanitary laws, 210.
Sarnerbund, 26.
Schaffhausen, admission, 17; legislature, 120; public funds, 146.
Schools, 91, 165, 168. See also Education.
Schulgemeinde, 182.
Schultheiss, 134.
Schwyz, early government of, 4, 5, 6; entered into a league with Uri and Unterwalden, 7; attempted partition, 27; the folk-mote in, 107; district government, 137; government expenses in, 156; education, 187.
Secession, 27.
Sempach, 17.
Sempacher Brief, 13, 14, 62.
Senate, Helvetic Republic, 21.
Settlement, form of Alamannic, 4; right of, 205.
Siebnerconcordat, 26.
Social problems and the confederation, 83; right of citizens to form associations, 99; monopoly of retail distribution of liquor at Basel, 150; progressive taxation, 154, 155; laws for the poor in the 16th century, 161.
Solothurn, State Council of, 133.
Sonderbund, 27; dissolved, 28; secession of, 94.
Sovereignty, cantonal, 195.
Staatsanwalt, 141.
Ständerath, 39.
State. See also Canton.
State-rights. See State Sovereignty.
State sovereignty, 28; reason of vitality, 28; and federal rights, 32, 33, 36; compared with U. S., 34; military affairs, 63.
Statistics, treatises, 236; tables, 239.
Statthalter, or Vice-President of Council of State, 134.
Strassburg, ally of Swiss League, 17.

Subject lands, 20. See *Vogteien*.
Synod, 178.

Tacitus, beginning of the folk-mote, 107, 110.
Taxation, state and local, 145; direct, 152; double, prevented, 206; treatises on, 235.
Telegraph, 73, 86, 203.
Temperance problems, under government alcohol monopoly, 80, 81.
Thurgau, 4, 6; enters confederation, 18.
"Ticino Question," 36.
Topography, list of works, 238.
Town-meeting. See Community.
Tramps, in the 16th century, 160.
Treaties, cantons allowed to make, 33; interstate laws by, 50; of cantons, watched over by Federal Council, 53; confederation sole power with foreigners, 35, 195.
Treason, as dealt with in *Sempacher Brief*, 62, 63.
Tribunals, extraordinary, forbidden, 209.
Tribunal fédéral. See Federal Judiciary.
Triple Council in Glarus, 112.
Trogen, meeting of folk-mote, 114.

United States, Germanic origin of institutions, 4; compared with old Swiss confederation, 20; federal government earlier than Swiss, 28: compared, vii, 32, 33; amendment of constitution, 49; cabinet compared with Swiss Federal Council, 55; Federal Court of, as compared with Swiss federal judiciary, 61, 142; religious liberty in, 98; power of legislature, 125; referendum in, 126; State Governor compared with Swiss President of Council of State, 135; township taxation, 169; boards of education, 183.
Universities, and federal polytechnic school, 91, 199; democratic, 186.
Unterwalden, early government of, 4, 5, 6; entered the league with Uri and Schwyz, 7; education, 187.
Uri, early government of, 4, 5, 6; entered into a league with Schwyz and Unterwalden, 7; *Landesgemeinde*, 108; legislature, 116; education, 187.

Valais, ally of League, 17; admitted, 24; legislature, 120; origin of referendum, 122.
Vaud, salt monopoly, 147; taxation, 153; religions in, 176.
Veto, 32, 46, 47, 48, 122; in U. S., 127.
Vienna, Congress of, 23, 24, 67; university, 186.
Vogteien, Gemeine, 17.
Vorort, 23.
Vote, popular, *Landesgemeinde*, 106; for members of state legislature, 116; the "referendum," 122; in United States, 127.

War, Civil, of 1847, 175.
War, declared by confederation, 195.
Weibel, 111.
Weights and measures, 89, 204.
Wilson, W., viii.

Zähringen, Dukes of, 6.
Zug, admitted to confederation, 10, 11; *Landesgemeinde*, 108; legislature, 120; referendum, 123.
Zugewandte Orte, 17.
Zürich, abbey of, 5, 6; joins the confederation, 10; secret treaty with Austria, 13; government of, 115, 124; public service compulsory, 144; public funds of, 146; town-meeting, 167; education, 183, 184, 186, 187; Bluntschli's history, viii, 231.
Zwingli, 181.

JOHNS HOPKINS UNIVERSITY STUDIES

IN

HISTORY AND POLITICS.

HERBERT B. ADAMS, Editor.

FIRST SERIES.—Local Institutions.—1883. $4.00.

I. An Introduction to American Institutional History. By EDWARD A. FREEMAN. 25 *cents.*

II. The Germanic Origin of New England Towns. By H. B. ADAMS. 50 *cents.*

III. Local Government in Illinois. By ALBERT SHAW.—Local Government in Pennsylvania. By E. R. L. GOULD. 30 *cents.*

IV. Saxon Tithingmen in America. By H. B. ADAMS. 50 *cents.*

V. Local Government in Michigan, and the Northwest. By E. W. BEMIS. 25 *cents.*

VI. Parish Institutions of Maryland. By EDWARD INGLE. 40 *cents.*

VII. Old Maryland Manors. By JOHN HEMSLEY JOHNSON. 30 *cents.*

VIII. Norman Constables in America. By H. B. ADAMS. 50 *cents.*

IX-X. Village Communities of Cape Ann and Salem. By H. B. ADAMS. 50 *cents.*

XI. The Genesis of a New England State (Connecticut). By ALEXANDER JOHNSTON. 30 *cents.*

XII. Local Government and Free Schools in South Carolina. By B. J. RAMAGE. 40 *cents.*

SECOND SERIES.—Institutions and Economics.—1884. $4.00.

I-II. Methods of Historical Study. By H. B. ADAMS. 50 *cents.*

III. The Past and the Present of Political Economy. By R. T. ELY. 35 *cents.*

IV. Samuel Adams, The Man of the Town Meeting. By JAMES K. HOSMER. 35 *cents.*

V-VI. Taxation in the United States. By HENRY CARTER ADAMS. 50 *cents.*

VII. Institutional Beginnings in a Western State. By JESSE MACY. 25 *cents.*

VIII-IX. Indian Money as a Factor in New England Civilization. By WILLIAM B. WEEDEN. 50 *cents.*

X. Town and County Government in the English Colonies of North America. By EDWARD CHANNING. 50 *cents.*

XI. Rudimentary Society among Boys. By J. HEMSLEY JOHNSON. 50 *cents.*

XII. Land Laws of Mining Districts. By C. H. SHINN. 50 *cents.*

THIRD SERIES.—Maryland, Virginia and Washington.—1885. $4.00.

I. Maryland's Influence upon Land Cessions to the United States. George Washington's Interest in Western Lands, the Potomac Company, and a National University. By H. B. ADAMS. 75 *cents.*

II-III. Virginia Local Institutions:—The Land System; Hundred; Parish; County; Town. By E. INGLE. 75 *cents.*

IV. Recent American Socialism. By RICHARD T. ELY. 50 *cents.*

V-VI-VII. Maryland Local Institutions:—The Land System; Hundred; County; Town. By LEWIS W. WILHELM. $1.00.

VIII. The Influence of the Proprietors in Founding the State of New Jersey. By AUSTIN SCOTT. 25 *cents.*

IX-X. American Constitutions ; The Relations of the Three Departments as Adjusted by a Century. By HORACE DAVIS. 50 *cents.*

XI-XII. The City of Washington. By J. A. PORTER. 50 *cents.*

FOURTH SERIES.—Municipal Government and Land Tenure.—1886. $3.50.

I. Dutch Village Communities on the Hudson River. By IRVING ELTING. 50 *cents.*

II-III. Town Government in Rhode Island. By W. E. FOSTER.—The Narragansett Planters. By EDWARD CHANNING. 50 *cents.*

IV. Pennsylvania Boroughs. By WILLIAM P. HOLCOMB. 50 *cents.*

V. Introduction to the Constitutional and Political History of the Individual States. By J. F. JAMESON. 50 *cents.*

VI. The Puritan Colony at Annapolis, Maryland. By DANIEL R. RANDALL. 50 *cents.*

VII-VIII-IX. History of the Land Question in the United States. By SHOSUKE SATO. $1.00.

X. The Town and City Government of New Haven. By CHARLES H. LEVERMORE. 50 *cents.*

XI-XII. The Land System of the New England Colonies. By MELVILLE EGLESTON. 50 *cents.*

FIFTH SERIES.—Municipal Government, History and Politics.—1887. $3.50.

I-II. City Government of Philadelphia. By EDWARD P. ALLINSON and BOIES PENROSE. 50 *cents.*

III. City Government of Boston. By JAMES M. BUGBEE. 25 *cents.*

IV. City Government of St. Louis. By MARSHALL S. SNOW. 25 *cents.*

V-VI. Local Government in Canada. By JOHN GEORGE BOURINOT. 50 *cents.*

VII. The Influence of the War of 1812 upon the Consolidation of the American Union. By NICHOLAS MURRAY BUTLER. 25 *cents.*

VIII. Notes on the Literature of Charities. By HERBERT B. ADAMS. 25 *cents.*

IX. The Predictions of Hamilton and De Tocqueville. By JAMES BRYCE. 25 *cents.*

X. The Study of History in England and Scotland. By PAUL FRÉDÉRICQ. 25 *cents.*

XI. Seminary Libraries and University Extension. By H. B. ADAMS. 25 *cents.*

XII. European Schools of History and Politics. By ANDREW D. WHITE. 25 *cents.*

SIXTH SERIES.—The History of Co-operation in the United States.—1888. $3.50.

SEVENTH SERIES.—Social Science, Education and Government.—1889. $3.50.

I. Arnold Toynbee. By F. C. MONTAGUE. With an Account of the Work of Toynbee Hall in East London, by PHILIP LYTTELTON GELL. 50 *cents.*

II-III. The Establishment of Municipal Government in San Francisco. By BERNARD MOSES. 50 *cents.*

IV. The City Government of New Orleans. By WILLIAM W. HOWE. 25 *cents.*

V-VI. English Culture in Virginia : A Study of the Gilmer Letters, etc. By WILLIAM P. TRENT. $1.00.

VII-VIII-IX. The River Towns of Connecticut. Wethersfield, Hartford and Windsor. By CHARLES M. ANDREWS. $1.00.

X-XI-XII. Federal Government in Canada. By JOHN G. BOURINOT. $1.00.

EIGHTH SERIES.—History, Politics and Education.—1890. $3.50.

I-II. The Beginnings of American Nationality. The Constitutional Relations between the Continental Congress and the Colonies and States. By ALBION W. SMALL. $1.00.

III. Local Government in Wisconsin. By DAVID E. SPENCER. 25 *cents.*

IV. Spanish Colonization in the Southwest. By FRANK W. BLACKMAR. 50 *cents.*

V-VI. The Study of History in Germany and France. By Professor PAUL FRÉDÉRICQ. Translated by Henrietta Leonard. $1.00.

VII-VIII-IX. Progress of the Colored People of Maryland since the War. By JEFFREY R. BRACKETT. $1.00.

X. The Study of History in Belgium and Holland. By Professor PAUL FRÉDÉRICQ. (Translation.) 50 *cents.*

XI-XII. Seminary Notes on Recent Historical Literature. By H. B. ADAMS, J. M. VINCENT, W. B. SCAIFE, and others. 50 *cents.*

NINTH SERIES.—Education, History, Politics, and Social Science.—1891. Subscription, $3.00.

I-II. The Government and Administration of the United States. By W. W. WILLOUGHBY and W. F. WILLOUGHBY. 75 *cents.* In boards, interleaved for notes, $1.25.

III-IV. History of Higher Education in Maryland. By B. C. STEINER.—The Johns Hopkins University (1876-1891). By D. C. GILMAN. 50 *cents.*

V-VI. Development of Municipal Unity in the Lombard Communes. By WILLIAM KLAPP WILLIAMS. 50 *cents.*

VII-VIII. Public Lands and Agrarian Laws of the Roman Republic. By ANDREW STEPHENSON. 75 *cents.*

The Character and Influence of the Fur Trade in Wisconsin. By FREDERICK JACKSON TURNER.

Constitutional Development of Japan from 1853-1881. By TOYOKICHI IYENAGA.

Causes of the American Revolution. By JAMES ALBERT WOODBURN.

African Colonization: A History of Liberia. By J. H. T. MCPHERSON.

University Studies in Social Science. By CHARLES LEE SMITH, JOHN H. FINLEY, A. B. WOODFORD, and others.

Higher Education of the People. By the EDITOR.

EXTRA VOLUMES.

I. The Republic of New Haven. A History of Municipal Evolution. By CHARLES H. LEVERMORE. 342 pages, 8vo. Cloth, $2.00.

II. Philadelphia, 1681-1887. A History of Municipal Development. By EDWARD P. ALLINSON and BOIES PENROSE. 444 pages, 8vo. Cloth, $3.00.

III. Baltimore and the Nineteenth of April, 1861. A Study of the War. By GEORGE WILLIAM BROWN. 176 pages, 8vo. Cloth, $1.00.

IV-V. Local Constitutional History of the United States. By GEORGE E. HOWARD.

Vol. I.—Development of the Township, Hundred, and Shire. 526 pages, 8vo. Cloth, $3.00.

Vol. II.—Development of the City and the Local Magistracies (in preparation).

VI. The Negro in Maryland. A Study of the Institution of Slavery. By JEFFREY R. BRACKETT. 270 pages, 8vo. Cloth, $2.00.

VII. The Supreme Court of the United States. Its History and Influence in our Constitutional History. By W. W. WILLOUGHBY. 124 pages, 8vo. Cloth, $1.25.

VIII. The Intercourse between the United States and Japan. By INAZO NITOBE. 198 pages, 8vo. Cloth, $1.25.

IX. State and Federal Government of Switzerland. By J. M. VINCENT. 250 pages, 8vo. Cloth, $1.50.

X. Spanish Institutions of the Southwest. By F. W. BLACKMAR. 300 pages, 8vo. Cloth, $2.00.

NOTES SUPPLEMENTARY TO THE STUDIES.

The publication of this series of *Notes* was begun in January, 1889. The following have thus far been issued:

Municipal Government in England. By Dr. ALBERT SHAW, of Minneapolis.

Social Work in Australia and London. By Mr. WM. GREY, of the Denison Club, London.

Encouragement of Higher Education. By Professor HERBERT B. ADAMS.

The Problem of City Government. By Hon. SETH LOW, President of Columbia College.

The Libraries of Baltimore. By Mr. P. R. UHLER, of the Peabody Institute.

Work among the Workingmen in Baltimore. By Professor HERBERT B. ADAMS.

Charities: The Relation of the State, the City, and the Individual to Modern Philanthropic Work. By A. G. WARNER, Ph. D., Associate Professor in the University of Nebraska.

Law and History. By Dr. WALTER B. SCAIFE, Reader on Historical Geography in the Johns Hopkins University.

The Needs of Self-Supporting Women. By Miss CLARE DE GRAFFENRIED, of the Department of Labor, Washington, D. C.

The Enoch Pratt Free Library of Baltimore. By Dr. L. H. STEINER, Librarian of the Pratt Library.

Early Presbyterianism in Maryland. By Rev. J. W. MCILVAIN.

The Educational Aspect of the U. S. National Museum. By Professor O. T. MASON.

University Extension and the University of the Future. By R. G. MOULTON.

These Notes are sent without charge to regular subscribers to the Studies. They are sold at five cents each; twenty-five copies will be furnished for $1.00.

The set of eight series is now offered in a handsome library edition for $24.00; and including subscription to the ninth series, $27.00.

The eight series, with nine extra volumes, "New Haven," "Baltimore," "Philadelphia," "Local Constitutional History," Vol. I, "Negro in Maryland," "U. S. Supreme Court," "U. S. and Japan," "Switzerland," and "Spanish Institutions," altogether seventeen volumes, for $38.00.

The nine extra volumes (now ready) will be furnished together for $13.50.

Orders and Subscriptions should be addressed to

THE JOHNS HOPKINS PRESS,
Baltimore, Md.